

2013

## Fixing What Has Been Broken: The United States' Actions in the Aftermath of the Looting of the Iraq National Museum during the 2003 Invasion

Jonathan David Yost  
*College of William & Mary - Arts & Sciences*

Follow this and additional works at: <https://scholarworks.wm.edu/etd>



Part of the [American Studies Commons](#), and the [Near and Middle Eastern Studies Commons](#)

---

### Recommended Citation

Yost, Jonathan David, "Fixing What Has Been Broken: The United States' Actions in the Aftermath of the Looting of the Iraq National Museum during the 2003 Invasion" (2013). *Dissertations, Theses, and Masters Projects*. Paper 1539626709.

<https://dx.doi.org/doi:10.21220/s2-qdsr-kj48>

This Thesis is brought to you for free and open access by the Theses, Dissertations, & Master Projects at W&M ScholarWorks. It has been accepted for inclusion in Dissertations, Theses, and Masters Projects by an authorized administrator of W&M ScholarWorks. For more information, please contact [scholarworks@wm.edu](mailto:scholarworks@wm.edu).

Fixing What Has Been Broken:  
The United States' Actions in the Aftermath of the Looting of the Iraq  
National Museum during the 2003 Invasion

Jonathan David Yost

Alexandria, Virginia

Master of Arts, The College of William & Mary, 2013  
Master of Public Policy, The College of William & Mary, 2011  
Bachelor of Arts, The University of Virginia, 2004

A Thesis presented to the Graduate Faculty  
of the College of William and Mary in Candidacy for the Degree of  
Master of Arts

American Studies Program

The College of William and Mary  
August 2013


## APPROVAL PAGE

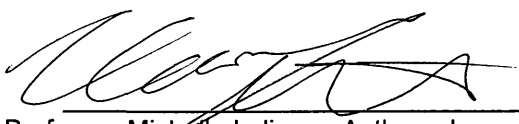
This thesis is submitted in partial fulfillment of  
the requirements for the degree of

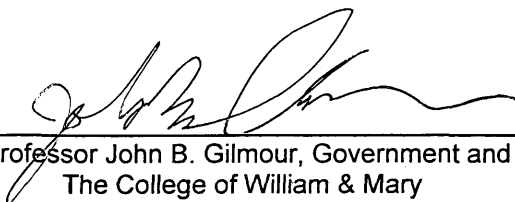
Master of Arts

  
Jonathan David Yost

Approved by the Committee, May 2013

  
Committee Chair  
Associate Professor Charles McGovern, History and American Studies  
The College of William & Mary

  
Assistant Professor Michelle Lelievre, Anthropology and American Studies  
The College of William & Mary

  
Distinguished Professor John B. Gilmour, Government and Public Policy  
The College of William & Mary

## ABSTRACT

The looting of the Iraq National Museum in 2003, the subsequent debates regarding responsibility for the looting, and questions concerning the appropriate approach to museum reconstruction reveal the symbolic power of the museum as an institution—a power that history has shown to be capable of triggering division, but nonetheless retains tremendous potential for encouraging unification.

In the wake of the looting of the Iraq National Museum during the 2003 U.S.-led invasion, an analysis of the looters, the materials they stole, and the socio-cultural environment permissive to such actions reveals that all stakeholders appropriated the museum's holdings and the cultural heritage embodied within for the purpose of preserving competing self-interests.

Much debate arose from these events, with the majority of it centering on whether the U.S. violated international law and whether a theory of cultural nationalism or internationalism is most appropriate for the museum's recovery. This discussion highlights several conundrums facing heritage protection and preservation. Dialogue over U.S. responsibility for the looting reveals the inadequacy of legislation alone in protecting cultural heritage, while debate between approaches of cultural nationalism or internationalism as the proper path forward reveals a tragic tradeoff between what may be ideal for the global community and what may be in the best interests of the recovering Iraqi nation.

Despite the museum's potential to divide, proven many times in its relatively short lifespan, it nonetheless retains tremendous future potential to unify. This potential must be capitalized upon by scholars and policy makers alike to signify a return to normalcy in Iraq and to preserve its national identity, diversity, and heritage.

## TABLE OF CONTENTS

Acknowledgements	ii
Dedications	iii
Introduction and Overview	1
Section I. The Economic and Symbolic Significance of the 2003 Looting of the Iraq National Museum	11
Section II. The Debates Arising from the 2003 Looting of the Iraq National Museum and the Inadequacy of Modern Cultural Heritage Protection Laws	51
Section III. Whether to Employ Cultural Nationalism or Cultural Internationalism in the Iraq National Museum's Recovery and the Conundrum Facing Cultural Heritage Protection Today	83
Section IV. The Iraq National Museum's Past Ability to Divide and Its Future Potential to Unify	104
Conclusion and Summary	131
Appendix	135
Bibliography	142

## ACKNOWLEDGEMENTS

This writer wishes to express his appreciation to Professor Charles McGovern, under whose guidance this investigation was conducted, for his patience, guidance and criticism throughout the investigation. The author is also indebted to Professors Michelle Lelievre and John Gilmour for their careful reading and criticism of the manuscript.

The writer also wishes to thank Professor Donny George Youkhanna for his accessibility as he began his research, Professors Grey Gundaker and Curtis Moyer for their tutelage in material culture and cultural heritage preservation, and Jean Brown for her administrative support in this course of study.

Lastly, the writer wishes to express the utmost gratitude to his wife, Miranda Yost, for her unfailing encouragement and counsel during this examination.

This M.A. is dedicated to Miranda Yost, my wife and sharer of life's many joys; to my parents, David and Angela Yost, and my grandmother, Rose Marinari, who endeavored to foster within me a love of museums and American history that has given me immense joy; my sisters, Jennifer and Melissa, for indulging this interest countless times over the years; my friends for their endless encouragement; and St. Rita of the Impossible.

## **FIXING WHAT HAS BEEN BROKEN:**

### **The United States' Actions in the Aftermath of the Looting of the Iraq National Museum during the 2003 Invasion**

#### **Introduction and Overview**

The subject of looting has been studied from numerous angles, giving rise to a number of hypotheses concerning the motivations behind it and the meaning arising from it. Scholarly literature on this topic has identified four components as key contributors to episodes of looting: potential looters, an availability of valued goods, an absence of restraining factors, and a permissive socio-cultural environment.<sup>1</sup> Moreover, three distinct types of looting—namely, economic, symbolic, and selective looting<sup>2</sup>—also emerge from the literature.

The phenomenon of looting is problematic because it marks the general breakdown of public order. It overturns societal notions of private property and generates illicit networks, or bolsters them where they already exist, that offend communal notions of legal commerce. Moreover, looting is also unsettling because of the long-entrenched economic injustices to which it often responds. In the case of cultural property, looting is especially

---

<sup>1</sup> MacGinty, Roger. "Looting in the Context of Violent Conflict: A Conceptualization and Typology." *Third World Quarterly*. Vol. 25, No. 5 (2004), pp. 861-864.

<sup>2</sup> MacGinty, pp. 866-868



disconcerting because it either destroys artifacts themselves or the context from which they are drawn, erasing the remnants of centuries of heritage and limiting the conclusions that archaeologists may draw from the study of material culture.

The looting of the Iraq National Museum during the U.S.-led invasion of 2003 is of relevance for all of these reasons. It marked the coming of years of insurgency with which the U.S. armed forces and the emerging Iraqi government would wrestle, it highlighted the deplorable conditions under which much of Iraq's populace suffered for decades, and it saw the theft and destruction of thousands of years' worth of cultural heritage.

This thesis will examine the looting of the Iraq National Museum with an interdisciplinary lens. It will rely less on anthropological and ethnographic literature, for this comprises but one avenue of insight into the events of April 2003. Instead, it will draw upon domestic and foreign heritage professionals; testimony from current and former members of the U.S. military, as well as other government agents; international jurisprudence; journalistic opinion; and other resources. The resources I found approached this topic in a variety of media and genres—newspapers, museum studies journals, military history or public management case studies, international law arguments, etc. It was my feeling that a more inclusive method could reach a wider audience. In contrast to the many sources that fit into one of these

channels, this thesis will attempt to integrate them all to address more wholistically the legal and policy implications of these tragic events for cultural heritage protection.

To this end, the essay will consult sources that examine the psychology of looting and apply the findings to the events of April 2003. Economists and contemporary historians will paint a picture of what led a people to ransack an institution of their cultural heritage. It will look to the journalistic coverage from shortly after the looting occurred in order to identify recurring themes in the Western reaction, and it will augment this with Al Jazeera reporting to gauge the Middle Eastern response. Amid the lamentation that more was not done to protect the museum, this thesis will look to jurisprudence and legal opinion to examine what legally could (and thus should) have been done to prevent this catastrophe, and pair it with the writings of museum and heritage professionals to entertain proposals of what may be pursued moving forward by way of museum recovery.

The first section of this thesis will conduct an analysis of the looters and the materials they plundered, the lack of prohibitive factors, and the permissive socio-cultural environment leading up to the looting of the Iraq National Museum during the 2003 U.S.-led invasion, and reveal this episode of looting to have meaning that is both economic and symbolic.

Looking to these four contributors and the three types of looting to which they lead is revelatory in the case of the Iraq National Museum. As expected, all four contributing components were present leading up to the 2003 looting of the Iraq museum. Notably, these contributing factors gave rise to all three types of looting as the museum's contents were ransacked. An analysis of the groups who carried out the looting and the goods that each respective group chose to pilfer reveals the episode to be a prime example of both economic and selective looting. Simultaneously, looking to the absence of restraining factors and the otherwise permissive socio-cultural environment reveals these events to exemplify symbolic looting.

In these events, we witness distinct stakeholders—invading U.S. forces, outgoing Baathist officials, museum staff, and Iraqi citizens—having different competing understandings of cultural heritage, as well as competing interests in its preservation (or lack thereof). This section will also show that the conflicts among these four groups over the cultural heritage within the museum centered on furthering their own competing interests.

The second and third sections of this thesis will examine the debate that has arisen from these events. I first argue that questions concerning potential U.S. violations of international law reveal the inadequacies of modern legislation in protecting cultural heritage. I further maintain that discussions of the possible museum reconstruction are rooted in cultural

internationalism or nationalism, and these debates reveal a bitter tradeoff between acting in the best interest of the global community or that of the recovering Iraqi nation.

While there is much debate over whether the U.S. violated international law by failing to protect the museum from looting, both sides of the debate enjoy a degree of representation within the literature on the topic. The second section of this thesis will survey a diversity of opinion to show that, though the reasons justifying their positions vary, several common themes do emerge.

The primary arguments for the position that the United States did indeed violate international law focus on readings the intent behind relevant international tenets, as well as a spirit of national harmony with international standards. The majority of opinion against U.S. actions constituting a violation of international law focuses on a more literal reading of the law and obligations under it, as well as a tendency toward minimal compliance with relevant doctrine. This study will reveal that relevant legislation at the national and international levels is not only flawed, but is an inherently insufficient means to protect cultural heritage. Rather, such legislation must be augmented by a national desire and legitimate conviction to protect cultural property in order for any heritage laws to be effective in accomplishing this.

The next section will show that the two predominant schools of thought relating to material culture and preservation are cultural nationalism and cultural internationalism. A culturally nationalistic approach centers on the artifacts belonging to the source nation and appeals to a sense of national heritage, while a culturally internationalist approach centers on the artifacts belonging to the world as a whole and appeals to a sense of global heritage.

Each has its pros and cons, as well as a number of scholars who support it as the most appropriate path forward for the Iraq National Museum. Approaches rooted in cultural nationalism tend to be better for the source country of the artifacts. Among others, benefits include economic development from domestic and international heritage tourism, creating or fostering a national identity, providing a social education in what is deemed an ideal citizenry, and preserving the future of domestic scholarship. Approaches rooted in a sense of cultural internationalism are often safer for the artifacts when the source nation is poorer. They can be preferable for both the field of study as well as the global community, as they can help ensure a more widespread exposure to the artifacts and thus help foster a sense of worldwide heritage.

Despite each school of thought enjoying a considerable degree of support, the prevailing trend in modern years has been to lean toward internationalism. Not surprisingly, the literature concerning the reconstruction

of the Iraq Museum since its 2003 looting has been overwhelmingly in favor of approaches deeply rooted in a sense of cultural internationalism.

An unfortunate tradeoff, however, emerges from this debate.

Artifacts may be better protected and conserved if removed from areas plagued by violent strife. They may also be safer in richer nations that can afford to employ more effective preservation techniques. While this can be desirable for the artifacts as objects themselves and heritage preservation as a field of study, it may prove damaging to the autonomy, sovereignty, national identity, and long-term cultural heritage of the nation from which they hail. While the heritage may enjoy a larger audience and thus foster a wider appreciation for Iraq and Middle Eastern culture under the wing of cultural internationalism, the benefits for the Iraqi populace—a strengthened national identity and a social education in patriotism and desirable citizenship—could be sacrificed in times of calamity when the need for such cohesion is keenest.

With these tradeoffs in mind, the fourth section of this thesis will argue that museums have a tendency to be employed as political instruments, with the Iraq National Museum being no exception. Ever since its inception, the Iraq National Museum has had a long history of being employed as a political tool by British, Baathist, and most recently both American stakeholders and the new Iraqi government. It will call attention to the museum's proven track record of being used to foster a spirit of division, and

highlight the recurring theme of stakeholders appropriating its collections and the heritage they embody to further their own interests. It will also argue that, despite this history, the museum nonetheless retains a tremendous potential to sow the seeds of a future unification.

This section will recount how use of the museum as an instrument of politics began with the British formation of modern-day Iraq and installation of the Faisal monarchy, a time during which Gertrude Bell exerted a great deal of influence on the formation of the museum and its evolution within the country's Ministry of Public Works. It will also communicate how this practice continued with the Baathist regime's use of the museum to legitimize their claim to power by way of connecting itself to the past glories of ancient Babylon. This section will also show that, during the years of insurgency that followed the initial invasion, parts of Iraq's fledgling government appropriated the museum for the purpose of sowing anti-occupation discord, actively drawing the distinction between Islamic artifacts and Mesopotamian artifacts and granting permission to loot the former but not the latter.

All the while, outside of Iraq, the museum was also used as a device to either condemn or justify U.S. foreign policy amid the 2003 invasion. Opponents and critics of U.S. foreign policy used the museum and its plight as a device to condemn U.S. war efforts, while those supporting the

war, on the other hand, voiced an alarmingly wide array of tenuously supported narratives concerning the looting to justify the U.S. decision to invade.

Despite this potential to divide, which has been proven in the Iraq National Museum's relatively short lifespan, the last section will argue that the museum and its collections nonetheless retains a rich potential to signify a return to normalcy within Iraq, acting as a weather vane of progress in reconstruction, and to foster an Iraqi national identity and sense of pride. It can give context to the many eras of strife within Iraqi heritage, a context which can then communicate broader truths to the citizenry concerning broad elements such as Mesopotamian roots, the Islamic faith, periods of British colonialism and early nationhood, years of Baathist alienation, and the U.S. invasion and subsequent new government.

Museums are symbols of power, so it stands to reason that the Iraq National Museum can legitimize a people just as it has legitimized regimes. This can, in turn, ensure long-term preservation of artifacts and longevity of scholarship, as a profound resonance with the populace and a collective identity or conscience are the first steps in securing the survival of material culture.

Rather than merely propping up the ruling party's historical narrative, the museum can also give special voice to Iraq's long overlooked



diversity, even if respective historic narratives are conflicting. This can include attention to the deeply felt tribal differences and religious differences ignored by the United States in its war planning. By virtue of predating modern-day strife, the Mesopotamian period stands poised as a solid common ground upon which to begin the process of unifying the diverse elements that comprise Iraqi society.

If national museums are to be considered an outward sign of independent nations, then the reopening and proper functioning of the Iraq National Museum will signal this to the Iraqi people and to the world, a notion the U.S. would do well to support. After all, if this is the United States' goal in Iraq—to return the nation to a pre-totalitarian state of affairs—then the museum's restoration and proper functioning is equally in the best interests of the U.S. as of the Iraqis. This unifying potential can and must be capitalized upon by both policy makers and cultural heritage professionals alike in order to signify a return to normalcy in Iraq, to solidify its modern twenty-first-century national identity, as well as to preserve its rich diversity and ancient heritage well into future generations.

## **I. The Economic and Symbolic Significance of the 2003 Looting of the Iraq National Museum**

### ***The Looting of the INM***

Operation Iraqi Freedom—the U.S.-led mission to invade Iraq and ouster Saddam Hussein and his Baathist regime—officially began on March 20, 2003. The first U.S. forces entered the capital of Baghdad on April 5, but left vacant the Iraq National Museum compound, home of the world’s largest collection of Mesopotamian artifacts,<sup>3</sup> from April 9-12 during the siege. During this time, the museum was looted, with hundreds of thousands of antiquities being taken in three devastating waves—though there was likely some overlap between these waves of theft<sup>4</sup>—that shocked and enraged the global community.

The first wave began early on April 10, as a group of organized professional thieves with information on the location of highly-prized antiquities entered the compound. It is currently believed that these professionals entered Iraq just before the war in anticipation of capitalizing

---

<sup>3</sup> Gerstenblith, Patty. “From Bamiyan to Baghdad: Warfare and the Preservation of Cultural Heritage at the Beginning of the 21<sup>st</sup> Century.” *Georgetown Journal of International Law*. Vol. 37 (2006), p. 288.

<sup>4</sup> Vreeke, Dennis. “The Looting of the National Museum of Iraq, Baghdad: How Cultural Heritage Became War Booty.” McGill University (20 November 2006), p. 3.

upon the “the opportunity of a lifetime,”<sup>5</sup> perhaps stealing and selling “big-ticket items” as part of a long-standing arrangement dating as far back as the First Gulf War.<sup>6</sup> This group sought specific pieces and took some of the most valuable items from the museum’s public galleries,<sup>7</sup> as if they were working from a shopping list.<sup>8</sup>

The second wave of looting took place later that same day, as a group of ordinary citizens focused mainly on furniture and electronic equipment, and attempted to set fire to the administrative and offices, labs, and record rooms.<sup>9</sup> This second group also entered the museum’s public galleries and removed thirty-four artifacts from the walls and out of display cases, highly-prized items that were too large for the museum staff to have moved to safety ahead of time, including the famous 5,000-year-old Sacred Vase of Warka, as well as the over 4,000-year-old Bassetki Statue, one of the two Ninhursag Bulls, and the Entemena Statue.<sup>10</sup> This wave of looters also stole indiscriminately from the museum’s more accessible above-ground

---

<sup>5</sup> Rothfield, Lawrence, ed. *Antiquities under Siege: Cultural Heritage Preservation after the Iraq War*. Lanham: AltaMira Press (2008), pp. 40-41.

<sup>6</sup> Bogdanos, Matthew and William Patrick. *Thieves of Baghdad: One Marine’s Passion for Ancient Civilizations and the Journey to Recover the World’s Greatest Stolen Treasures*. New York: Bloomsbury (2005) , p. 215.

<sup>7</sup> Hitchcock, Ann. “Through the Fog of War in Iraq: Lessons Learned in Heritage Preservation.” *The George Wright FORUM*. Vol. 20, No. 4 (2003), p. 29.

<sup>8</sup> Bogdanos and Patrick, p. 20

<sup>9</sup> George, Donny and McGuire Gibson. “The Looting of the Iraq Museum Complex.” *Catastrophe: The Looting and Destruction of Iraq’s Past*. Chicago: The Oriental Institute Museum (2008), p. 21.

<sup>10</sup> George and Gibson, p. 23

storage rooms, taking items such as the Warka Mask and stripping the 4,500-year-old Ur Lyre (one of the world's oldest surviving stringed musical instruments) of its gold inlays.<sup>11</sup> The true number of items taken may unfortunately never be known since these areas had yet to be fully inventoried by the museum staff.

The third and final wave, like the first, was composed of professional thieves, or perhaps museum insiders. This group “had intimate knowledge of the museum and its storage practices” and “targeted high-value items in unmarked cabinets.”<sup>12</sup> Al Jazeera coverage of the looting explicitly addressed the possibility of museum insiders playing a role in the theft, implying that staff members who disappeared during war were to blame.<sup>13</sup> Other Middle Eastern journalistic pieces also mentioned this possibility, albeit briefly and as an afterthought to U.S. culpability.<sup>14</sup> In any event, this group broke into areas of the museum whose location was known to few and took with them some 5,000 pieces of jewelry and 5,000 cylinder seals from early historical periods.<sup>15</sup> These stone cylinder seals were used to sign wet clay tablets and represent one of the earliest forms of writing, recording many

---

<sup>11</sup> George and Gibson, p. 25

<sup>12</sup> Hitchcock, p. 29

<sup>13</sup> Priceless museum items go missing. (2003, September 11). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>14</sup> History ... another victim of occupation. (2003, October 23). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>15</sup> George and Gibson, p. 21

aspects of ancient life, including religious myths, laws and court cases, trade practices, etc.<sup>16</sup> Museum staff returned and finally secured the complex on April 12 as throngs of journalists arrived, before United States forces eventually arrived on April 16 to overtake security.

The looting of the museum ignited a media fire storm. Reports from journalists and heritage professionals of the total number of items stolen were initially overstated and varied widely immediately following the securing of the museum.<sup>17</sup> Depending on the source, somewhere between 50,000 and 170,000 items were taken in the looting.<sup>18</sup> These numbers differ wildly, largely as a result of the emotional fever pitch from archaeologists.<sup>19</sup> These stories all accused the U.S. of acting unilaterally while ignoring international law governing the protection of cultural heritage. Reporting from sensationalist press and analysis from journalists ignorant of the social, cultural, or political realities of the situation<sup>20</sup> was also at play.

---

<sup>16</sup> Gerstenblith, pp. 273-274

<sup>17</sup> Hitchcock, p. 33

<sup>18</sup> Lawler, Andrew. "Mayhem in Mesopotamia." *Science*. Vol. 301 (August 2003), p. 585.

<sup>19</sup> Joffe, Alexander H. "Museum Madness in Baghdad." *The Middle East Quarterly*. Vol. XI, No. 2 (Spring 2004), p. 31.

<sup>20</sup> Córdoba, Joaquín María. "On the Iraq Museum and Other Assaults: Brief News about the Plundering of Iraqi Museums and the Systematic Looting of Iraqi Archaeological Heritage." *Isimu: Revista sobre Oriente Próximo y Egipto en la Antigüedad*. Vol. 3 (2000), pp. 20-21.

Although these narratives would be revised some four days later,<sup>21</sup> these dramatic initial reports roused the international community into action,<sup>22</sup> and U.S. forces began a formal investigation into the events and an effort to recover stolen items both within and outside of Iraq. As Middle Eastern media sources would point out, however, “numbers cannot tell the whole story.”<sup>23</sup> The true number of looted pieces likely came to around 15,000; approximately only 4,000 of them having been recovered to date.<sup>24</sup>

In the months that followed the looting, many perspectives on the looting were offered in both the journalistic and academic realms. Accessing Iraqi perspectives on the looting of the museum has been difficult, with Iraq’s infrastructure in shambles and there being less opportunity for occupants of a war zone to voice their opinion than we enjoy in the Western world. Though the barrier of not speaking Arabic is also a factor, English translation of Al Jazeera coverage has provided some insight into how the Iraqi people viewed the looting. Many critics, Western and Middle Eastern alike, blamed the U.S. for not securing the museum as quickly as it had secured other civic ministries. Others spun the events as evidence to justify the U.S. invasion, with a variety of opinions also emerging in between. Amid these myriad viewpoints, a most common thread, however, emerged—lamentation for the

---

<sup>21</sup> Joffe, p. 37

<sup>22</sup> Hitchcock, p. 29

<sup>23</sup> Priceless museum items go missing. (2003, September 11). Al Jazeera.

<sup>24</sup> Gerstenblith, p. 290

loss of these irreplaceable antiquities embodying thousands of years of world heritage.

Sadly, throughout history, it has not been unheard of for a nation to devalue the heritage of another that it conquers. The practice has dated back to the Roman era, and probably earlier.<sup>25</sup> Throughout history, victor nations have pillaged the cultural property of those they conquered, and Iraq has been no stranger such “predetermined [policies] to destroy the physical memory of a vanquished enemy.”<sup>26</sup> For a population to actively pillage remnants of *its own* cultural heritage amidst conflict, however, is a much more uncommon and exceedingly troubling act that merits examination. Given such a terrible loss suffered by a world heritage site in the twenty-first century, a subsequent search for explanation was inevitable.

The subject of looting has thus been examined from multiple angles, giving rise to a number of hypotheses concerning the motivations behind it and the meaning arising from it. Sifting through myriad perspectives, one finds that the focus of these hypotheses is most often to first identify motivating factor(s) behind the destruction and then to categorize the destruction that occurred in order to arrive at some semblance of understanding.

---

<sup>25</sup> Gerstenblith, p. 249

<sup>26</sup> Stone, Peter and Bajjaly, Joanne, eds. *The Destruction of Cultural Heritage in Iraq*. Woodbridge, Suffolk: Boydell Press (2009), p. 7.

### ***Key Contributory Factors to Episodes of Widespread Looting***

There is a wide array of theories on the motivation behind extensive looting. Readings of literature on the topic reveal a spectrum that spans from greed to need, but despite this diversity of opinion, sociologists often find four key components of episodes of looting. These components are potential looters, an availability of goods that are valued and stand to be looted, an absence of restraining factors, and a permissive socio-cultural environment.<sup>27</sup> Notably, all four of these factors were abundantly present in the climate leading up to the 2003 fall of Saddam Hussein's regime.

It is difficult to conceive that any one of these four factors can give rise to episodes of widespread looting on their own; rather, all four must be simultaneously present to give rise to such a phenomenon. We can frame the four contributing factors to looting within a supply-demand model. This model would predict the supply of valuable items relative to the demand for them to steer the extent of the looting. The looters—whether random citizens from surrounding neighborhoods, professional thieves, or regime insiders—and the stolen goods from the museum comprise the “supply” portion of the events of April 2003. The demand factors in fostering the looting reside in the chronic underdevelopment of the nation and a lucrative black market for

---

<sup>27</sup> MacGinty, Roger. “Looting in the Context of Violent Conflict: A Conceptualization and Typology.” *Third World Quarterly*. Vol. 25, No. 5 (2004). pp. 861-864.



antiquities. The overall “unstable and unregulated environment” in which this supply-demand interaction was able to occur speaks to the lack of restraining factors and socio-cultural environment generally permissive the plunder of cultural property from the national museum.<sup>28</sup>

Potential looters were abundant. In such violent conflicts, “most of those who can leave the country do.”<sup>29</sup> A large number of Baghdad residents remained in their homes during the invasion, and among them were those whose economic desperation was and frustration with the Baathist regime was palpable.<sup>30</sup> That is not to say, however, that all residents who remained were potential looters. Rather, as they were able to assess the conflict’s impact on their neighborhoods, there were groups among them who interpreted the relatively small invading force’s lack of intervention in the looting of other government buildings as proof that the “Americans were unable, or unwilling, to impose order”<sup>31</sup> and as tacit permission to do engage in looting.<sup>32</sup>

Second, valuable goods were certainly vulnerable to looting within the museum compound in April 2003. Indeed, much of the city housed items that could be stolen once the invasion accelerated. While the majority of the

---

<sup>28</sup> Vreeke, p. 3

<sup>29</sup> Ferris, Elizabeth and Matthew Hall. “Update on Humanitarian Issues and Politics in Iraq.” *Brookings-Bern Project on Internal Displacement* (2007), p. 2.

<sup>30</sup> Gawron, Laura. “An Examination of the 2003 Looting of the Iraq National Museum: How the Protection of Iraq’s Cultural Property Was Overlooked.” Seton Hall University (2010), pp. 52-57.

<sup>31</sup> Gawron, Laura, p. 17.

<sup>32</sup> Gerstenblith, p. 288

population remained in their homes during the siege, elites fled in large numbers. Iraqi wealth was distributed unevenly, favoring the elites.<sup>33</sup> As the Coalition forces and the Baathist regime struggled against one another, the vacant enclaves of the rich housed goods ready to be taken and redistributed among the masses.

Such pillaging required a conducive environment. The remaining third and fourth factors—the absence of restraining factors and a permissible socio-cultural climate—made this possible. These third and fourth factors were interlinked; the *perceived* absence of restraining forces likely comprised a main component of a larger climate permissible to looting.

The lack of constraints originated in the conflicting goals and power struggles of three authorities: the U.S.-led Coalition, the Baathist regime, and the museum staff. As the Coalition and Baathists fought one another, the remaining museum staff was unable to secure the help of either in securing the museum amid the conflict.

Economic depression and a thriving market for Mesopotamian antiquities made looting an attractive form of generating money for average Iraqis. The country's education system did little to build ties between the populace and the remnants of the region's Mesopotamian heritage. The

---

<sup>33</sup> Schubert, Samuel. "Revisiting the Oil Curse: Are Oil Rich Nations Really Doomed to Autocracy and Inequality?" *Oil and Gas Business*. National Defense Academy in Austria, Institute for Human and Social Studies (July 2006), p. 8.

museum's outward association with the outgoing oppressive regime prompted Iraqis to devalue the museum holdings. Together, these three factors created would "combine to create a very volatile situation in which it is perfectly understandable that large scale looting can happen at any time."<sup>34</sup>

The primary economic basis for looting cannot be dismissed. The effect of poverty on cultural heritage can be devastating,<sup>35</sup> and the situation in Iraq was no exception. Both the Iraqi State Board of Antiquities and Heritage and its collections of artifacts certainly suffered "from the effects of economic hardships caused both by debts from the war with Iran and by comprehensive sanctions in response to the invasion of Kuwait."<sup>36</sup> The collection suffered as few resources safeguarded its longevity and security.

More tellingly, the general population felt the effects of unemployment, poverty, and hunger as a result of the international sanctions and isolation from the international community stemming from Saddam Hussein's actions. On the eve of the 2003 invasion, poverty and jobless rates continued to inhibit economic and social progress. Throughout the 1990s, nearly two-thirds of Iraqis were dependent on government food rations, some twenty percent of the population lived under the UNICEF definition of

---

<sup>34</sup> Stone and Bajjaly, p. 107

<sup>35</sup> Gerstenblith, p. 350

<sup>36</sup> Russell, John M. "Efforts to Protect Archaeological Sites and Monuments in Iraq, 2003-2004." *Catastrophe: The Looting and Destruction of Iraq's Past*. Chicago: The Oriental Institute Museum (2008), p. 29.

“extreme poverty,” more than one million children went malnourished, and sanitation suffered.<sup>37</sup> This extreme poverty was not limited to Baghdad and other cities. Outside of the cities, many were unable to sell their crops and one of the few means of survival was providing the goods demanded by antiquities dealers.<sup>38</sup> Antiquities were a ready, nearby, and easily liquidated asset. Under the same conditions in 1994, as former head of the State Board of Antiquities and Heritage Mu’ayyad Sa’id noted, “The priority [then was] how to feed the people.”<sup>39</sup> In 2003, many citizen looters similarly responded to such dire conditions by looting the museum, as well as other institutions of cultural heritage and archaeological sites outside of Baghdad, hoping to sell artifacts to “obtain additional income due to chronic underdevelopment.”<sup>40</sup>

Encouraging these sales was a well-established black market in antiquities comprised of private collectors, tourists, art dealers, museums, and even terrorist organizations.<sup>41</sup> Illicit trade in antiquities has met punishment with severity in Iraq since 1958, though it was revived after the First Gulf War in 1991.<sup>42</sup> Prehistoric artifacts of the Mesopotamian past were known to fetch a particularly high price. For instance, some private collectors had been able

---

<sup>37</sup> Harding, Scott. “The Sound of Silence: Social Work, the Academy, and Iraq.” *Journal of Sociology and Social Welfare*. Vol. 31, No. 2. (2004), pp. 183-184, 186.

<sup>38</sup> Stone, Peter. “The Identification and Protection of Cultural Heritage during the Iraq Conflict: A Peculiarly English Tale.” *Antiquity*. Vol. 79 (2005), p. 938.

<sup>39</sup> Joffe, p. 33

<sup>40</sup> Vreeke, p. 4

<sup>41</sup> Vreeke, pp. 5-8

<sup>42</sup> Gawron, p. 46

to purchase small artifacts that exist in greater number, such as stone cylinder seals that record ancient life's religious beliefs, civic administration, and trade activities for \$200—a sum not insignificant to an impoverished citizen of Baghdad—with the knowledge that they could in turn be sold for at least ten times that amount, while larger objects have been sold for prices upward in the millions of dollars.<sup>43</sup> Arab-centric media sources have highlighted this “steal to order” system by which wealthy collectors exploit “penniless villagers.”<sup>44</sup>

Amid such dismal conditions, the opportunity to sell antiquities that were likely to fetch a lucrative price on this black market became an attractive means of either providing sustenance or augmenting an existing but inadequate income. This has been evidenced by investigators' interviews with some of the perpetrators as museum pieces were recovered ultimately revealing the true motive to have often been selling the artifacts to private collectors, art dealers, or corrupt curators, and it has been argued by economists studying the chronic poverty and underdevelopment amid which these perpetrators lived.<sup>45</sup> Many scholars have noted that this black market and the “destruction of [the] cultural infrastructure of Iraq” acted together in

---

<sup>43</sup> Vreeke, p. 7

<sup>44</sup> Stealing undiscovered history in Iraq. (2004, April 14). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>45</sup> Vreeke, pp. 4, 6-8

paving the way for much of the widespread looting of the museum compound.<sup>46</sup>

Due to this economic dimension to the looting, Arabic media coverage rarely depicted the looting of the museum specifically. In fact, by 2006 and 2007, timelines of the war's key events published by 2006 did not mention looting at all,<sup>47</sup> and neither did evaluations of Bush administration strategies to date.<sup>48</sup> What coverage did mention the looting highlighted how it inhibited oil production and the receipt of foreign aid in Iraq,<sup>49</sup> and how it was symbolic of the greater breakdown of order.<sup>50</sup>

Additionally, the national school curriculum of Baathist Iraq played a strong role in the population's path to looting. Iraqi schools minimized connections between the populace and their Mesopotamian heritage as preserved in the museum's collections. Prior to the 2003 invasion, Iraq had in place an established public education system, though disparities in education became apparent for many citizens after the age of fourteen. This

---

<sup>46</sup> Hamilakis, Yannis. "The 'War on Terror' and the Military-Archaeology Complex: Iraq, Ethics, and Neo-Colonialism." *Archaeologies: Journal of the World Archaeological Congress* (14 February 2009), p. 10.

<sup>47</sup> Timeline: Conflict in Iraq. (2006, March 20). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>48</sup> Bush strategies in Iraq to date. (2007, January 11). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>49</sup> World Bank struggles with Iraq finances. (2003, August 2). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>50</sup> Iraq recovers lost artefacts [*sic*]. (2010, September 21). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

education was primarily Islamic in focus, with little inclusion of the nation's prehistoric heritage. Only one year of the entire ten years of required public education devoted any time to Mesopotamian history, and this cursory glance occurred at age twelve. "This [was] the *only* opportunity that pupils [had] to study ancient Mesopotamian history," and students were arguably too young to identify with long lists of unfamiliar names and events, so "most pupils forgot about it completely" after being "taught about it, just for one year."<sup>51</sup> As a result, few Iraqis had any extensive knowledge or investment in their material heritage, and museum professionals have reaffirmed that these "looters did not know much about these ancient peoples."<sup>52</sup>

It stands to reason that citizens with a sense of pride and ownership in a museum are more likely to protect it than they are to loot it, and successful cultural heritage preservation depends heavily on resonating with the population at large.<sup>53</sup> Granted, being vested in heritage may not necessarily be enough to overcome designs for survival amid the poverty and oppression that prompted much of the looting. These factors are likely unequal, with survival seemingly outweighing appreciation for heritage under dire enough conditions. Nonetheless, increasingly widespread feelings of

---

<sup>51</sup> Stone and Bajjaly, p. 106

<sup>52</sup> Gawron, p. 53

<sup>53</sup> Hitchcock, p. 37

ownership in national heritage bode more favorably for cultural heritage protection than the alternative.

Furthermore, the museum as an institution had built irrevocable ties to the Baathist regime. Archaeology has long been “a powerful tool to bind the multiethnic Iraqis together, as some of the country’s early leaders were not slow to recognize,”<sup>54</sup> including the Baathists, as their regime had made considerable effort to connect itself to the nation’s Babylonian heritage as a means of legitimizing its authority. Upon coming to power in Iraq, Saddam Hussein focused heavily on archaeology, specifically that from pre-Islamic periods of history to foster Arab unity and unify diverse elements in the region. Like many rulers, Saddam recognized that heritage could contribute to a nation’s identity and esteem, and he deployed it to legitimize his “modern government’s claims as heirs to an ancient past.”<sup>55</sup> As I later discuss in more detail, this mainly entailed the rebuilding of archaeological sites and incorporating archaeological themes into public persona.<sup>56</sup> In fact, the Baathist government’s slogan was “Yesterday Nebuchadnezzar, today

---

<sup>54</sup> Giannuzzi, Timothy. Book review of Magnus T. Bernhardsson’s “Reclaiming a Plundered Past: Archaeology and Nation Building in Modern Iraq.” *The American Journal of Islamic Social Sciences*. Vol. 23, No. 2 (2006), p. 118.

<sup>55</sup> Cuno, James. “Antiquity Belongs to the World: Archaeology Must Be Shielded From Nationalistic Laws And Politics.” *The Chronicle of Higher Education Review*. Vol. 54, Issue 43 (2008), p. B9.

<sup>56</sup> Bernhardsson, Magnus T. *Reclaiming a Plundered Past: Archaeology and Nation Building in Modern Iraq*. University of Texas Press, 2006, pp. 215-216.



Saddam Hussein.”<sup>57</sup> The museum was a vital piece in this plan, and use of it for this purpose reached particularly visible heights under Saddam’s rule, with him outwardly employing regime loyalists at high levels within the museum and displaying himself prominently within its exhibits to solidify this link between his present rule and that of the past, presenting his reign as the culmination of these previous empires.<sup>58</sup>

Given the regime’s focus on Mesopotamian heritage in the museum, it is strange that the schools did not stress this heritage in their curriculum. Paradoxically, ignorance of this history was advantageous to Saddam. Since “the general public was not too familiar with the basic facts of that history, as it was with Islamic history, and the Mesopotamian stories were not enmeshed in popular culture,”<sup>59</sup> Saddam was able to present the Mesopotamian narrative to the public as he wished through the museum and archaeological sites. Acting as the keepers of this historical narrative and the sole source of dispensing it resulted not in wonder and allure from the public, but instead propaganda, as evidence by the 2003 looting and destruction.

---

<sup>57</sup> Cuno, p. B9

<sup>58</sup> Bernhardsson, p. 216

<sup>59</sup> Bernhardsson, p. 215

### ***Resulting Types of Extensive Looting***

These four elements that contribute to episodes of widespread looting have been shown to interact and give rise to three distinct categories of looting. These three types of looting are economic, selective, and symbolic. It can be argued that all looting is economic, selective, and symbolic; in other words, episodes of looting simultaneously assume these dimensions. By way of definition, the differences between looting's dimensions are discussed below.

First, economic looting is the most basic type of looting. It involves the looting of objects that satisfy an absolute need, such as food, shelter, or clothing, as well as goods that can be sold in order to satisfy these more basic needs.<sup>60</sup> The driving force behind this type of looting is the need for either the items themselves or for goods that can be purchased with funds gained by selling the stolen items. In this light, the phenomenon of economic looting can be seen more as a civic uprising or strategy of survival than mere pillaging, as a significant portion of the populace so direly lacks necessities that it feels compelled to seize them for itself.

By the outset of the invasion, Iraq's population had endured years of poverty and privation. Leading up to the U.S.-led invasion, international sanctions enforced against Saddam Hussein since 1990 led to more than one-

---

<sup>60</sup> MacGinty, pp. 866-868

fifth of Iraqis in densely-populated regions being unable to meet basic needs over long periods of time, declining food self-sufficiency and endemic malnutrition, and the degradation of Iraq's once-advanced healthcare delivery system.<sup>61</sup> All the while, Iraq enjoyed abundant oil resources. In fact, in 2003, Iraq had 112 billion barrels of crude oil reserves—the world's second largest endowment, totaling eleven percent of the global total—and averaged production of 10.5 million barrels per day.<sup>62</sup> Less than five percent of this wealth, however, ever went to the Iraqi people; instead, it funded the military, palaces, and the Hussein family's lifestyle, producing "a very high level of acute poverty and starvation" for the rest of the population in which the majority of "the Iraqi people live well below the World Bank definition of poverty."<sup>63</sup> When oil resources were meant to provide some relief via the Oil-for-Food program, this proved a "poor replacement for a functioning economy," as the sanctions crippled Iraq's oil refinery structure and made it impossible to fulfill its quota in exchange for other goods, with the receipts often being slow to arrive, defective, expired, or spoiled.<sup>64</sup>

---

<sup>61</sup> Harding, Scott. "Man-made Disaster and Development: The Case of Iraq." *International Social Work*. Vol. 50, No. 3 (2007), p. 300.

<sup>62</sup> Kumins, Lawrence C. "Iraq Oil: Reserves, Production, and Potential Revenues." Congressional Information Service, Library of Congress (2004), p. 1.

<sup>63</sup> Gawron, p. 52

<sup>64</sup> Bahdi, Reem. "Iraq, Sanctions and Security: A Critique." *Duke Journal of Gender Law and Policy*. Vol. 9, No. 237 (2002), p. 246.

This environment ultimately constituted “the perfect storm” for the looting of Iraqi antiquities.<sup>65</sup> Looting took place to sell antiquities on the black market to either feed or augment incomes. Archaeologists with experience in Iraq have noted that “archaeology is a convenient means solve such problems for poor Iraqis and their families. Many peasants see fields of pottery that you can dig up when you’re broke ... To poor Iraqis, there isn’t much difference between working in a field and digging in a site—it’s all work, and work brings money.”<sup>66</sup> In this context, we can understand looting as an act of desperation and self-preservation.

The black market comprised of private collectors, art dealers, museums, and even terrorists organizations was there to “take full advantage of people’s ignorance, hatred, and suffering.”<sup>67</sup> Depending on their wealth, private collectors purchase either well-known artifacts for their own enjoyment or lesser known items either as simple souvenirs or for their resale value.<sup>68</sup> Art dealers purchase a significant amount of looted artifacts and sell them to museums; indeed, history has shown museums to “have always been involved in the purchase of stolen or looted art.”<sup>69</sup> Following the invasion of

---

<sup>65</sup> Russell, pp. 29-31

<sup>66</sup> Gawron, p. 53

<sup>67</sup> Rothfield, pp. 54-55

<sup>68</sup> Vreeke, pp. 6, 19

<sup>69</sup> Vreeke, pp. 7-8, 21

Iraq, a number of terrorist groups even also dealt in antiquities stolen from the museum to gain access to cash or weapons.<sup>70</sup>

Despite the evidence of widespread economic motive, reports emerged that Iraqi citizens seized the artifacts for altruistic reasons; foreign journalists reported that Iraqis regularly expressed appreciation for the artifacts and a desire to safeguard them from harm. As antiquities cannot be properly displayed in the average Iraqi home, motives for theft are not likely aesthetic or curatorial. Hiding the artifacts from both the invading Coalition forces and defending Baathist forces, however, seemed a more likely possibility. Reports of looters' intent having been to secure the objects until proper order could be restored were indeed more common. For instance, a nearby resident returned two high-profile items—one of the twin copper bulls from Ninhorsag and a four-foot statue of the Assyrian King Shalmaneser III—that he claimed to have taken for safekeeping. Outside of Baghdad, ordinary citizens helped the Chief Librarian at Basra's Central Library save some seventy percent of its collections before the institution was looted and burned.<sup>71</sup> Though they may not comprise the lion's share of looters, those citizens who looted with altruistic intent demonstrated recognition of the sacred value of cultural property. The act of removing the collection items was meaningful; it declared the artifacts and the heritage embodied in them to

---

<sup>70</sup> Vreeke, p. 7

<sup>71</sup> Hitchcock, p. 37

be the property of the Iraqi people rather than of the belligerents or even of the museum itself.

Heroic as these actions may have been, such incidents do not represent the majority of thefts. As Colonel Bogdanos, the military official leading the United States' end of the museum recovery effort, would observe, nearly everyone that they encountered claimed to have taken something for safekeeping, much like nearly every criminal a district attorney encounters claims to be innocent.<sup>72</sup> That being said, Col. Bogdanos has a bias that could not be ignored. As a member of the U.S. armed forces and career criminal investigator, his outlook was presumably predisposed him to search for alternatives to American guilt. Further, the average Iraqi's disconnection with the ancient Mesopotamian past commemorated by the museum would also preclude this sense of ownership of the cultural property to have been felt on a widespread scale. Without widespread education in the region's Mesopotamian legacy, as previously discussed, there can be little hope for the appreciation of the heritage that the artifacts embody. The overall aim of the masses in looting, therefore, would appear to be fiscal gain to satisfy personal and family needs. These conflicting testimonies that resulted, however, likely exposed each party's desire to discredit the others in the aftermath of the looting.

---

<sup>72</sup> Bogdanos and Patrick, p. 151

Second, selective looting, however, is more discriminating than mere economic looting. While the economic motivation behind it remains the same, it differs in that it requires that looters pay particular attention to a targeted selection of materials.<sup>73</sup> The choice of certain items over others merits attention to why such items were preferable.

Professional thieves in the first and third waves of looting engaged in selective or connoisseurial looting. These thefts targeted particularly renowned artifacts of notable value were targeted for removal from the museum. Thieves took only the most valuable items in an organized and selective manner, bypassing replicas and less valuable objects.<sup>74</sup> Other pieces were taken from areas of the museum complex where only a few individuals had access; comparatively sophisticated tools may have been used in their removal.<sup>75</sup> These particular groups of looters were smaller in number than the masses who committed the second wave of indiscriminate looting, and took a comparably smaller amount of artifacts. While the monetary worth of these prized artifacts certainly attracted this particular wave of looters, their sacred value did not. Such thievery offers some of the most apparent evidence of the intense opportunism at play in the 2003 looting of museum.

---

<sup>73</sup> MacGinty, pp. 866-868

<sup>74</sup> Bogdanos, Matthew. "The Casualties of War: The Truth about the Iraq Museum." *American Journal of Archaeology*. Vol. 109, No. 3 (July 2005), p. 507.

<sup>75</sup> Bogdanos and Patrick, pp. 213-214

Symbolic looting, in contrast to economic and selective looting, has less of a fiscal motivation behind it. This type of looting has as its motivation the desire to possess items that embody an administration or regime.<sup>76</sup> The end goal, then, is to destroy or re-appropriate the objects for the purpose of symbolizing a dramatic change in power, venting anger against the outgoing regime, or punishing its members by erasing their remnants from the collective memory.

The gaping void in security in Baghdad in April 2003 gave the populace the opportunity to engage in symbolic looting. The United States' narrow focus on taking the city left a veritable gap in power in which the looting was able to take place. The U.S. military could certainly have acted as a restraining force; its vast numbers, sophisticated weaponry, and systematic method of securing other parts of the city attest to this. Many critics in both the heritage and policy arenas have noted that "in this age of scrupulously organized invasions, precision bombing, and military planners, there was no reason that the Iraq Museum could not have been protected"<sup>77</sup> and that, given "the swift securing of the Oil Ministry, the claim that similar provision for the

---

<sup>76</sup> MacGinty, pp. 866-868

<sup>77</sup> Petersen, Kirsten E. "Cultural Apocalypse Now: The Loss of the Iraq Museum and a New Proposal for the Wartime Protection of Museums." *Minnesota Journal of International Law*. Vol. 16 (2007), p. 179.



museum was beyond American capacity simply [was] not credible.”<sup>78</sup> Such capabilities and advancements, however, proved hollow as U.S. authority solely focused on the singular primary goal of militarily taking and occupying the city of Baghdad and securing its other civic ministries. The Coalition’s “focus of attention” was on “battling a determined resistance and restoring security” instead of “stopping desecrations like ... looting.”<sup>79</sup> To U.S. forces, the museum did not merit protection, thus proving that the war’s planners and implementers did not value the museum’s contents.

The Iraq National Museum lay directly across the street from an elite Special Republican Guard compound and was along the approach to the al-Ahrar Bridge crossing the Tigris, an avenue vital to military transportation. It was also remarkably close to a key intersection crucial to supporting combat in the urban area. As a result, there was indeed a U.S. unit in very close proximity to the museum, but this unit, by virtue of their location, had orders from senior officers to secure this intersection to ensure support during the ensuing combat. Commanders ordered this unit not to shift focus to guarding the museum because the primary objective of taking the city outweighed this.<sup>80</sup> While this question was likely raised in planning the invasion, the point of disconnection between planners and troops on the ground has yet to

---

<sup>78</sup> Sandholtz, Wayne. “The Iraqi National Museum and International Law: A Duty to Protect.” *Columbia Journal of Transnational Law*. Vol. 44 (2005), p. 237.

<sup>79</sup> Stealing undiscovered history in Iraq. (2004, April 14). Al Jazeera.

<sup>80</sup> Bogdanos and Patrick, pp. 204-206

be pinpointed. For this, high-ranking officials must assume more blame than ground troops who are obliged to obey orders from above. Tragically, since the preservation of cultural heritage was not included in the invasion's primary goal, the museum suffered the consequences.

While much blame rests on U.S. shoulders, Baathist forces are not immune to culpability. The Baathist focus on repelling the invaders did not distract them from securing the museum in the midst of the destruction. In fact, quite the opposite took place. A group of Iraqi soldiers had essentially fortified the museum compound, though not for the purpose of defending its collections; rather, the intention was to take advantage of its prime location in central Baghdad, as a stronghold to fight the invasion of Coalition troops.<sup>81</sup> The parapet above the Children's Museum and other positions were advantageous for anti-Coalition snipers, and were employed for these respective ends. Arriving at the museum after the looting, U.S. Marines found Iraqi military uniforms, rocket-propelled and hand grenades, and rifles and other small arms scattered throughout the museum.<sup>82</sup>

In a direct violation of the Geneva Convention, the Baathists had made the museum itself a weapon against the invading forces. Doing so

---

<sup>81</sup> Willis, Lindsay. "Looting in Ancient Mesopotamia: A Legislative Scheme for the Protection of Iraq's Cultural Heritage." *Georgia Journal of International and Comparative Law*. Vol. 34 (2005), p. 225.

<sup>82</sup> Bogdanos and Patrick, p. 5

attracted return fire and openly invited destruction upon the museum complex. This is evidenced by the numerous bullet holes in the compound walls, the large hole in the Assyrian gate leading to the Children's Museum made by a U.S. tank round, and other damage to stone columns.<sup>83</sup> As the invasion progressed and the likelihood of victory diminished rapidly, many of the Republican Guard abandoned their mission to save their own lives.

Aside from the invaders and defenders, the remaining museum staff had entirely independent goals. Their main focus was to protect the collections of the museum, as well as to safeguard themselves and their families. The remaining staff made many preparations for the invasion. They intended to stay in the basement of the museum to defend the collections, and had stockpiled enough food and water to last them for two weeks.<sup>84</sup> Dr. George also distributed weapons to his staff to fend off looters, and the museum staff padded large items to withstand the shock of bombing and moved some particularly valuable pieces to secret locations as the invasion loomed closer.<sup>85</sup> Ultimately, however, the staff abandoned these plans to defend the museum when they saw heavily armed members Revolutionary Guard enter the compound in anticipation of a significant battle. They locked the museum and fled its grounds for safety on the east

---

<sup>83</sup> George and Gibson, p. 20

<sup>84</sup> George and Gibson, pp. 19-20

<sup>85</sup> Bogdanos and Patrick, pp. 203, 133, 143

side of the Tigris River, intending to return in a few hours, but U.S. troops closed all the bridges and they would not be able to return for five days.<sup>86</sup>

Despite these preparations, the escalating level of violence forced them to vacate when it became clear that the museum compound would become part of the battleground. Shortly after, the looting began. The staff's personal safety and that of their families took precedence over defending the museum collections. The subject matter expertise and passion of then-Director of the Iraq National Museum Dr. Donny George and his staff are laudable. While the preparations made by the staff to protect the artifacts ahead of the conflict are laudable, due to the collapsing security all around them, they were forced to withdraw their presence from the compound, regrettably leaving the museum defenseless.

Compounding the power vacuum, looters were also emboldened since the Iraq National Museum was so strongly linked to the Baathist regime. The connection between the museum and the Baathist administration was a notion that the U.S. administration regrettably did not expect, but one with which it would struggle greatly. Unfortunately, institutions of cultural heritage are often just as much targets as they are symbols.<sup>87</sup> What U.S. war

---

<sup>86</sup> George and Gibson, p. 20

<sup>87</sup> Hitchcock, p. 33

planners did not comprehend was how strongly “many Iraqis would equate museum looting with stealing from Saddam, and not from themselves.”<sup>88</sup>

Under Saddam’s reign, the museum progressed to become “an official agency of the Iraqi government .... synonymous with the Baath party” with Saddam himself effecting this outcome as “everyone who worked at the museum had served at the pleasure of Saddam Hussein.”<sup>89</sup> Not only did he feature himself prominently within the museum’s exhibits, Saddam also outwardly employed regime loyalists at high levels within the museum. One particular senior museum official, Dr. Hana Abdul Khaliq, enjoyed senior Baath party membership and was the sister of #41 on the Coalition’s Top 55 most wanted list.<sup>90</sup> Also giving the appearance of corruption was the fact that another high-ranking official at the museum, Dr. Jaber Khaleel Ibrahim al-Tikriti (the Chairman of the State Board of Antiquities and Heritage), was later revealed to be a senior Baath party official, leaving a “cloud [hanging] over the museum.”<sup>91</sup> To illustrate how the Iraqi people understood this, one need only recall how the U.S. Marines in charge of recovering and rebuilding the museum’s collections after the looting encountered a riot after allowing Jaber to aid in museum reconstruction efforts. It became apparent that “the average Iraqi harbored an enormous amount of anger against anyone who was

---

<sup>88</sup> Gawron, p. 56

<sup>89</sup> Bogdanos and Patrick, p. 16

<sup>90</sup> Bogdanos and Patrick, p. 276

<sup>91</sup> Lawler, p. 585

(or was merely thought to be) connected to the Hussein regime,”<sup>92</sup> and the Iraq National Museum was so entrenched in the Baathist regime that scores of Iraqis assembled to voice their bitter displeasure with signs reading “Jaber is a dictator!” and “Remove all Baath party members!”<sup>93</sup>

To provide deeper context, the regime had continually used the museum to “strengthen [its] sense of attachment to a glorious past.”<sup>94</sup> From this connection, they thus sought to legitimize their brutal wielding of power, though the 2003 looting would later show that this legitimization attempt had failed. The logic was that if the Baathists were the inheritors of Mesopotamia’s magnificent legacy, then their wielding of power was somehow justified. More importantly, as is customary for totalitarian regimes, it was not to be questioned by the populace. In this sense, the Baath party was thus able to exploit artifacts and works of art—objects that would be praised for their rarity and beauty in any other setting—to do the work of propping up their brand of oppression.<sup>95</sup>

Saddam Hussein had long made plain his understanding that cultural heritage was a prop to political power, most notably when he began rebuilding the ancient cities of Babylon and Nineveh in 1983. The regime

---

<sup>92</sup> Bogdanos (2005), pp. 500-501

<sup>93</sup> Bogdanos and Patrick, pp. 166-167

<sup>94</sup> Adams, Robert McC. “Contexts of Iraqi Looting.” *Proceedings of the American Philosophical Society*. Vol. 149, No. 1 (March 2005), p. 57.

<sup>95</sup> “The Thieves of Baghdad.” *The Burlington Magazine*. Vol. 145, No. 1203 (June 2003), p. 407.

stamped the bricks in the reconstruction with “in the reign of the victorious Saddam Hussein, the President of the Republic, may God keep him, the guardian of the great Iraq and the renovator of its renaissance and the builder of its great civilization,” just as the original bricks were stamped with the name of Nebuchadnezzar II in 605 BCE.<sup>96</sup>

Indeed, Baathist use of the museum reached particularly visible heights under Saddam Hussein. While all history is politicized, this was particularly true under Saddam’s rule. The most obvious indication of this was the prominent placement of portraits of Saddam in the museum’s grand rotunda, far too high to have been either taken or defaced by the masses during the looting.<sup>97</sup> Placing Saddam’s likeness in the context of the galleries that displayed these ancient treasures associated him with the reigns of Hammurabi, Sennacherib, Nebuchadnezzar and Saladin, declaring him to be their “modern day” counterpart.<sup>98</sup> Further, his likeness’ elevated position relative to the artifacts implied Saddam’s ownership of them and his importance over them. In addition to the upper echelon of the staff serving according to his personal pleasure, Saddam “raided the holdings over and over,” so much so that U.S. efforts to assess the damages were slowed by the

---

<sup>96</sup> Hitchcock, p. 33

<sup>97</sup> Bogdanos and Patrick, p. 125

<sup>98</sup> Gawron, pp. 54-55

level of pre-invasion disarray directly attributed to Saddam.<sup>99</sup> To academic purists, Iraq's "pre-Islamic Mesopotamian past" thus served the role of "reflecting glory on his present-day secular tyranny."<sup>100</sup>

Since the museum and its collections had come to represent the Baathist regime, the long-denied masses acted to re-appropriate the artifacts for their own purposes. The looting of cultural heritage symbolically "removed vestiges of Iraq's past ... indicating that a new reality was in place," as the "recent experience and memory of a repressive and ruthless government ... necessitated a clean break from the past."<sup>101</sup> Looting was indeed a means to this end. By destroying items that symbolized regime strength, citizens erased this power. By stealing and selling such items for their own benefit, citizens lay a new claim to them and effectively reverse the previous power relationship. In this context, this act was a significant gesture.

There was a prevailing cultural sentiment among the Iraqi people that stealing was permissible, as long as it was from the government. This is because the Iraqi nation had long been taught "that its wealth was for the Arab Nation first, second for those who governed and their families, then the military, and then last were the people;" thus, the people's "awareness that [they] came last in the minds of the governing elite led to an understanding

---

<sup>99</sup> Bogdanos and Patrick, pp. 139, 138

<sup>100</sup> Gawron, p. 54

<sup>101</sup> Bernhardsson, p. 220



that it was acceptable for [them] to steal from government properties.”<sup>102</sup> In Iraq, ordinary citizens “[were not taught] that government was supposed to administer and protect the wealth of the people on their behalf,” so the citizens of Baghdad understood that what was in the museum “was the property of the government, just as were the contents of any other government office or building,” and considered it “completely reasonable to take this property, just as people were taking—looting—from other government institutions and offices.”<sup>103</sup> In the words of Dr. George himself, “Most of [the looters] were not educated, and to them the museum was just one more government building.”<sup>104</sup> This does not reflect well upon the museum staff’s efforts to educate the Iraqi populace of its Mesopotamian heritage; rather, it indicates them having played a more effective role in propping up the Baathist regime.

The implication of this sanctioned theft was that the property being stolen belonged to the Baathist regime, not to the citizens. The museum compound had thus become the site of a widespread expression of anger and frustration with years under Baathist rule. In this sense, the Baathist regime had not only alienated throngs of Iraqis from their own past, but also prevented them from having a stake in the nation and its heritage. This reveals the looting of its collections to be much more than simple pilfering;

---

<sup>102</sup> Gawron, p. 53

<sup>103</sup> Gawron, pp. 53-54

<sup>104</sup> Ascherson, Neal. “Iraq and Ruin.” *The Guardian*. 1 May 2003.

rather, it is more like an act of “wholesale iconoclasm.”<sup>105</sup> “The masses sought to destroy something near and dear to Saddam’s heart.”<sup>106</sup> The act of looting gave the lower classes a rare outlet of expression of emotions such as anger, hatred, or frustration with years of economic and social repression under Baathist rule, as they destroyed the museum’s administrative areas and ransacked its galleries and collections.

### ***Stakeholders with Competing Self-Interests and the Devaluing of Cultural Heritage***

In the events of April 2003, four stakeholders—the invading forces, Baathists, U.S. officials, and citizen looters—appropriated the museum and its collections in order to further their own competing interests and deprioritized cultural heritage in the process.

The decisions made by key U.S. war planners exposed their institutional belief that cultural heritage mattered far less than other civic and physical assets. While agents of the U.S. claim to have had a concerted plan to protect the museum, it was regrettably plagued and rendered ineffective by

---

<sup>105</sup> “The Thieves of Baghdad,” p. 407

<sup>106</sup> Gawron, p. 55

“misunderstandings, mistakes, surprises, and bureau infighting.”<sup>107</sup> Put simply, any lack of clarity manifested cultural heritage’s low priority.

U.S. complicity in the looting was apparent; those observers tempted to blame the U.S. for the destruction have well-founded claims, given that the U.S. failed to prevent the looting in the first place or to stop it once it had commenced, despite having the resources to do so. Al Jazeera noted how “looting and lawlessness swept Baghdad and other parts of the country after the fall of the regime of Saddam Hussein, often as U.S. forces stood by.”<sup>108</sup> Failure to protect the museum also reinforced the Iraqi people’s belief that the U.S. only cared for its own culture,<sup>109</sup> that its concern for Iraqi heritage was disingenuous,<sup>110</sup> and that it was completely unaware of the cultural differences that exist between the U.S. and Iraq.<sup>111</sup> For Iraqis, the U.S. enabling the looting suggested that the key U.S. motivator in the invasion was vanquishing an enemy, as opposed to liberating a people, as official U.S. doctrine had declared.

---

<sup>107</sup> Lawler, p. 582

<sup>108</sup> Rumsfeld defends Iraq force size. (2005, April 27). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>109</sup> Bogdanos, Matthew. “Thieves of Baghdad: Combating Global Traffic in Stolen Iraq Antiquities.” *Fordham International Law Journal*. Vol. 31 (2008), p. 731.

<sup>110</sup> Willis, p. 226

<sup>111</sup> Gawron, pp. 58-59

By securing other civic institutions—such as the Ministry of Oil and some of Saddam’s palaces<sup>112</sup>—before securing the museum, U.S. officials reveal their indifference to the museum. The low priority they assigned to protecting the museum in comparison with that they assigned to securing healthcare and energy resources, among others, reveals its secondary status. “When marines entered the city ... cultural property became a secondary concern” as the U.S. “ultimately deemed protecting the cultural heritage of the Iraqi people of lesser importance than dismantling the remnant of the Baathist regime, securing Saddam Hussein’s palaces and the Oil Ministry, and making the city safe for American soldiers.”<sup>113</sup> This exposes the U.S. ignorance or dismissal of cultural heritage preservation’s and collective memory’s roles in society.

Second, in contrast, the Baathist government’s attention to cultural property reveals the belief that cultural heritage is indeed of importance, but not above being bent and reformed by their own agenda in the ensuing struggle for security. As with the United States, it is also unfair to accuse the Baathist government of not valuing cultural heritage. After all, this was a regime that invested great effort in linking themselves to an expansive lineage of Mesopotamian leadership. For many archaeologists, “Saddam Hussein

---

<sup>112</sup> Willis, p. 226

<sup>113</sup> Thurlow, Matthew D. “Protecting Cultural Property in Iraq: How American Military Policy Comports with International Law.” *Yale Human Rights and Development Law Journal*. Vol. 8 (2005), p. 176.

developed a reputation as a faithful steward of Iraq's cultural heritage."<sup>114</sup> As one Harvard scholar noted, "He [believed] he [belonged] to a history going back to ancient times .... so destroying it [did] not fit in with his self-image."<sup>115</sup>

Prior to the First Gulf War, the Baathist government in Iraq "managed its cultural heritage resources, particularly its archaeological heritage, very successfully."<sup>116</sup> During his reign, Saddam Hussein encouraged archaeology in Iraq, refused partage (the practice by which foreign universities retained a portion of their findings to take home with them), and even sought to recover items removed under earlier regimes, claiming that these prior rulers did not "grasp the importance of these antiquities," which he called "the treasures which are the symbol of the first and greatest civilization in human history."<sup>117</sup> All of this changed with the Baathist invasion of Kuwait in 1990 and the resulting war, sanctions, poverty, and isolation that would follow.<sup>118</sup> The museum remained closed for much of the 1990s, as well as after the 2003 looting,<sup>119</sup> making the "non-profit museum almost never

---

<sup>114</sup> Joffe, p. 32

<sup>115</sup> Joffe, p. 32

<sup>116</sup> Gerstenblith, p. 278

<sup>117</sup> Cuno, p. B8

<sup>118</sup> Joffe, p. 33

<sup>119</sup> Lewis, Erin. "Gertrude Bell and Archaeology in Iraq: From World War I to the 'War on Terror'." *The Post Hole*. Issue 9 (2012), p. 19.

open to the public .... Saddam's private treasure house" for more than twenty years.<sup>120</sup>

The Baathists subjugated the sacredness, educational value, and pride of their antiquities to their own claim to power. Such actions "[imposed] nationalist characteristics on antiquity" and "[distorted] the truth of culture."<sup>121</sup> The institution dedicated to their preservation was profanely used as a fortress to fight the invading Coalition forces, which endangered the artifacts and underscored their subservience to Baathist political imperatives. The invasion thus provided literal evidence of what the regime had figuratively done over the years. The economic and cultural dissatisfaction that motivated the looting of the museum and other historic sites outside of Baghdad attested to the Baathist administration's long-term failure to prioritize cultural heritage preservation.

By contrast, the Iraq National Museum staff acted as if cultural heritage was paramount. Dr. George and his staff placed the educational value of artifacts at the forefront, and made considerable effort to protect them for this potential in a post-war Iraq. By taking measures to protect the antiquities, they had done one better than the U.S. and Iraqi forces. The museum staff had moved many of the public galleries' prized artifacts to a

---

<sup>120</sup> Bogdanos and Patrick, pp. 139, 228

<sup>121</sup> Cuno, p. B9

secret secure location ahead of time, and padded the items that were too large to move. Dr. George provided weapons to his remaining staff to protect themselves and the museum, and had stockpiled enough rations to stay at the compound to defend it until the city was secured and proper order could be restored.

The museum staff only abandoned the artifacts to preserve their own lives. After seeing Republican Guard members scaling the wall and making preparations for a battle at the site, “realizing the level of violence that was imminent,” Dr. George and the final remaining staff members locked the compound and fled.<sup>122</sup> While they failed to protect the artifacts, their dedication to this collection seems unimpeachable.

The citizen looters believed in the value of artifacts, but largely for their economic potential. After all, groups of people simply do not loot worthless items. Alienated from guardians of heritage, most Iraqi citizens that chose to loot the museum of its contents upheld the monetary potential of the artifacts as primary. As discussed previously, the opportunity to sell antiquities that are likely to fetch a lucrative price on the black market likely became an attractive means of either sustenance or income augmentation to a portion of the population “well aware of their low rank on the economic

---

<sup>122</sup> Bogdanos and Patrick, pp. 203-204

scale” and where archaeology was considered “a convenient means to solve such problems for poor Iraqis and their families.”<sup>123</sup>

It must not be ignored, however, that these stakeholder narratives all aimed at self-preservation in a climate of intense competing interests. As the invading force, the U.S. placed other civic ministries at the forefront to justify its claim as a liberator, but suffered an embarrassing mishap when the museum was looted. At this point, foreign stakeholders appropriated the museum to preserve themselves. While Pentagon and White House officials were privately angered and embarrassed by the disaster, they publicly downplayed it, and opponents of the war used the incident as an opportunity to denounce the invasion while supporters of the war used it as an opportunity to justify the war effort.<sup>124</sup> Indeed, many voiced their opposition to or support for the war in the narrative of preserving human history.

Within Iraq, the Baathist regime chose to shore up its claim to power prior to and during the war. Doing so left the museum in a regrettable state of pre-invasion disarray, as both funds and manpower became diverted elsewhere, and literally placed the institution in harm’s way during the conflict. As further disaster loomed, the remaining museum staff became ordinary private citizens and their primary goal then became securing their

---

<sup>123</sup> Gawron, p. 53

<sup>124</sup> Lawler, p. 587



own lives and protecting their families. Ensuring the protection of antiquity and keeping it above the fray was understandably relegated as secondary to this more pressing aim.

The citizen looters also placed self-preservation at the forefront, with the exception of the few who may have taken items to safeguard them from destruction. This included both the ordinary citizens of Baghdad and the professional thieves. In contrast to the museum officials, they valued either seizing economic opportunity as their first priority or displaying frustration against the outgoing regime. “Angry citizens destroyed what they saw as government property in an act of protest, desperate opportunists stole what they could in an impoverished time, and calculating thieves seized a chance to steal some of the world’s most valued treasures.”<sup>125</sup>

What is apparent in examining these different approaches was how such dire times of intense competing self-interest can lead to the widespread looting of cultural heritage, as it did for the Iraq National Museum. Additionally, the deleterious effect such a climate can ultimately have on not only museums, but the ancient heritage that their collections preserve and embody also becomes evident.

---

<sup>125</sup> Gawron, p. 60

## **II. The Debates Arising from the 2003 Looting of the Iraq National Museum and the Inadequacy of Modern Cultural Heritage Protection Laws**

*This second section will examine discussion that arose in the aftermath of the looting of the Iraq National Museum in 2003. It will concentrate on the first of two major strands of debate—whether U.S. failure to protect the museum constituted a violation of international law. This examination will underscore several conundrums facing heritage protection and preservation, illustrating how questions concerning potential U.S. violations of international law reveal the inadequacies of modern legislation in protecting cultural heritage.*

### ***Debate arising within the International Community***

The actions of nations often serve as catalysts, spawning debates over the meaning of those actions, and the looting of the Iraq National Museum in 2003 has proved no exception. “State actions routinely trigger transnational arguments about the meaning and application of international norms,” and in the case of the 2003 looting of the Iraq National Museum, the “the U.S. failure to secure the Iraq National Museum clearly catalyzed a transnational argument about the obligation to protect cultural treasures.”<sup>126</sup>

Within this dialogue, a number of important questions arose. Whether the United States had “an obligation to protect the greatest cultural assets of the Iraqi people” and whether American policy “[provided] adequate

---

<sup>126</sup> Sandholtz, Wayne. “The Iraqi National Museum and International Law: A Duty to Protect.” *Columbia Journal of Transnational Law*. Vol. 44 (2005), p. 188.

guidance to ensure that the cultural property of the Iraqi people [would] be preserved,”<sup>127</sup> among other issues, were at the forefront of the discussion. A consensus emerged that “cultural property is entitled to protection as a matter of international human rights.”<sup>128</sup> Despite this developing level of accord, however, important political, moral, and legal questions still remained.

Amid the myriad perspectives offered in answer to these remaining questions, two recurring themes in turn emerge. One is the debate over whether the United States violated international law in failing to protect the museum from looting ahead of time or to come to its aid when the looting began. The other, examined in the next section, is whether approaches rooted in cultural nationalism or internationalism are most appropriate in long-term efforts to help to restore the museum.

### ***The Evolution of International Law Protecting Cultural Property***

A generous amount of international law addresses the protection of cultural property during wartime. These international conventions may be referenced, interpreted, and applied to United States’ actions in relation to the Iraq National Museum in 2003. Prior to World War II and the widespread

---

<sup>127</sup> Thurlow, Matthew D. “Protecting Cultural Property in Iraq: How American Military Policy Comports with International Law.” *Yale Human Rights and Development Law Journal*. Vol. 8 (2005), p. 154.

<sup>128</sup> Thurlow, p. 155

plundering of cultural property that came with it, some tenets existed. The Lieber Code of 1863, for instance, forbade the pillaging or destruction of public or private property during armed conflict, while the Hague Conventions of 1899 and 1907 prohibited among its parties willful damage to historic monuments and works of art and science.<sup>129</sup>

Following World War I, the Roerich Pact of 1935 emerged in response to the destruction of religious and educational institutions in France and Belgium. The pact was a Pan-American agreement for the protection of cultural property among the United States and twenty other countries in the Western Hemisphere. While the Roerich Pact mirrored the Hague Convention of 1907 in many ways, it afforded broader protections to historic, artistic, scientific, and educational sites during conflict, giving them neutral status and declaring that parties to the agreement had an obligation to “respect and protect” such sites.<sup>130</sup> Any specificity in what these tenets forbid, however, is not reflected in the notion of penalties for infractions; rather, they stipulate that violations “should be made the subject of legal proceedings.”<sup>131</sup>

Just as the cultural devastation of World War I led to the Roerich Pact, the affronts to cultural property experienced during World War II led to the Hague Convention of 1954. This convention stipulated that nations take

---

<sup>129</sup> Sandholtz, pp. 206-209

<sup>130</sup> Thurlow, pp. 158-159

<sup>131</sup> Sandholtz, p. 209

measures to protect their own cultural sites in the event of war, invoking the notion of a shared cultural heritage of all mankind. This tenet prohibited invaders from attacking such sites and defenders from using them in ways that attracted damage, as well as included the notion of individuals being held accountable for violations under these tenets and subject to legal proceedings. Parties to the convention were also charged with preventing damage to cultural property by its own forces or the local citizens.<sup>132</sup> The Hague Convention would ultimately become the foremost piece of international law in protecting cultural property and, not surprisingly, the main tenet referenced in critiquing the United States' actions in relation to the Iraq National Museum.

At the time of the invasion of Iraq in 2003, however, the Committee on Foreign Relations had not ratified the 1954 Hague Convention. This decision was made not to immediately ratify it in order to preserve the possibility for nuclear action against the Soviet Union during the Cold War. In the years since, most notably in 1972, with reduced nuclear threat, more precise weaponry, and desire to prosecute crimes against cultural property, the Department of Defense and Department of State reconsidered and recommended ratification, though ratification did not occur until 2008. Despite this inaction, the U.S. had not "objected to the provisions of the 1954

---

<sup>132</sup> Sandholtz, pp. 209-215

Hague Convention,” and it had “repeatedly affirmed that [its] armed forces comply with the treaty’s requirements both in military policy and in practice.”<sup>133</sup>

From this evolution of international conventions, one can observe a progression in international norms to increasingly reaffirm and expand protection for cultural property and relics of heritage—one onto which the U.S. eventually formally signed. This “clear trend in international law has been to reaffirm and expand protections for cultural property” in the “common interest of international society in preserving historical, architectural, and artistic treasures.”<sup>134</sup> These provisions have provided for “protection from intentional attack, incidental damage, pillage, and theft by state actors and military forces of states who are parties to [them].”<sup>135</sup>

Notably, the 1954 Hague Convention and the Roerich Pact represent the culmination of this progression in the protection of cultural property. “The Roerich Pact read together with the Hague Convention seem to present a united front of States, encompassing the entire globe ... [sharing] a common burden of protecting their own and other States’ cultural property to ensure the common benefit of posterity’s enjoyment and understanding of

---

<sup>133</sup> Sandholtz, pp. 229-232, 232-236

<sup>134</sup> Sandholtz, p. 238

<sup>135</sup> Jackson, Dick. “Cultural Property Protection in Stability Operations.” *Army Law*. (2008), p. 48.

great works of history.”<sup>136</sup> Not surprisingly, these international tenets mark the main standard against which U.S. actions in Iraq have been judged, and are widely referenced in the ensuing discussion over whether U.S. inaction regarding protecting the museum amounted to a violation of international law.

### ***The Debate over Whether the U.S. Violated International Law***

Within this discussion, heritage professionals, government officials, museum authorities, legal scholars, and others argued whether the U.S. violated international law by failing to protect the museum from looting. Both sides of this particular debate enjoy a considerable degree of representation within this body of literature. Although opinions varied, more discussants argued that the U.S. did indeed violate international law. This reading of literature in this arena shows that the belief that the U.S. violated international law is often based on an interpretation of the intent behind such tenets and the spirit of national unification with international norms, while the belief that the U.S. did not violate international law, on the other hand, is most often based on a strict and literal reading of the laws in question.

---

<sup>136</sup> Campbell, Courtney. “Arts and Arms: An Examination of the Looting of the National Museum of Iraq.” *Boston College International and Comparative Law Review*. Vol. 32 (2009), p. 431.

***Arguments supporting the Belief that the U.S. Violated International Law***

Many legal scholars deem the U.S. failure to protect the museum to indeed amount to a violation of international law. This belief, more often than not, has been supported with readings of the intent behind the relevant tenets and the spirit of national harmony with international standards. Several lines of thought appear in the body of literature supporting this. Based on a high-level reading of standards of international law such as the Hague Conventions and the Roerich Pact, support encompasses responsibilities incurred as the occupier of a country and has equated crimes against culture with crimes against humanity.

Given the trend in international norms to progressively reaffirm and expand protection for cultural property, scholarly literature and jurisprudence has been unsurprisingly critical of U.S. actions. Indeed, “international reactions ranged from critical to scathing” and “reactions within American society were just as vehement,”<sup>137</sup> according to Dr. Wayne Sandholtz, a Professor of Political Science whose work focuses on international norms and institutions. Other authorities, such as the Muslim Association of Britain, likened the Coalition occupation of Iraq to the Mongol

---

<sup>137</sup> Sandholtz, pp. 190, 194



invasion of 1258 in terms of “cultural and historical vandalism.”<sup>138</sup> A high-level reading of the Roerich Pact and the Hague Convention, along with other related international tenets, reveal their purpose to indisputably be the safeguarding of relics of cultural heritage during periods of violent strife. Given this high-level reading and public officials’ orders to conduct themselves in accordance with such standards, despite not formally being a party to all of them at the time of the invasion, the U.S. may have implicitly recognized a reasonable expectation of protection for the museum.<sup>139</sup> As many have noted, “though the United States is not a party to the Hague Convention for Protection of Cultural Property, it is a signatory and is thus at least nominally tied to both treaties.”<sup>140</sup> Thus, the U.S. plausibly was under international obligation to provide some degree of security to the museum.

In a similar vein, the literature argues that the looting was avoidable. Chief among both journalists’ and scholars’ accusations were that U.S. war planners should have been able to anticipate the looting of the museum given past experiences in the First Gulf War and explicit warnings of the likelihood of looting by Middle East scholars and heritage preservation experts prior to and during the war. The “disparities between official reassurances and the realities on the ground” that legendary British

---

<sup>138</sup> US occupiers compared to Mongol looters. (2003, October 16). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>139</sup> Sandholtz, pp. 236-237

<sup>140</sup> Campbell, p. 431

archaeologist and soldier Mortimer Wheeler saw in both World Wars I and II were tragically still being made in the 2003 invasion of Iraq.<sup>141</sup> U.S. authorities failed to heed these explicit warnings, appearing simply to not pay attention. The “United States’ accountability will” then “be dependent on whether or not its failure to prevent the organized and sustained looting of the museum can be considered destruction or ‘willful damage’.”<sup>142</sup>

The key lesson learned from the museum’s looting in 2003 is that negligence is often conflated with purposeful destruction. For many, if the looting was a foreseeable outcome, then U.S. inaction was the same as action.<sup>143</sup> Whether it was an error of omission or commission, however, the two often amount to the same thing for those that suffer as a result. Though it is more likely true that U.S. officials were reluctant, rather than incapable, to foresee the pillaging, it mattered little. Even if the necessary information had not made it to the decision makers, there is no difference in culpability. Ultimately, U.S. officials’ inability or unwillingness to anticipate the looting, their slowness to stop the looting when the second widespread wave of theft had begun, and its sluggishness in securing the museum compound once the

---

<sup>141</sup> Moshenska, Gabriel. “‘Impudent Lies’: Rhetoric and Reality in Wartime Heritage Protection, 1943-2003.” *Present Pasts*. Vol. 3.1 (2011), pp. 1-2.

<sup>142</sup> Campbell, p. 429

<sup>143</sup> Miller, Amy E. “The Looting of Iraqi Art: Occupiers and Collectors Turn away Leisuredly from the Disaster.” *Case Western Reserve Journal of International Law*. Vol. 37 (2005), p. 69.

looting had ceased are themselves akin to actually participating in the theft themselves.

Going beyond the minimal responsibility, then, has revealed itself to be necessary in ensuring the protection of cultural heritage during times of strife. Contrasting U.S. action relative to the “the swift securing of the Oil Ministry”<sup>144</sup> in Baghdad and the nation’s oil fields outside of it is a useful illustration. Though this was arguably unnecessary under minimal responsibilities, doing so had the potential to help secure Iraq’s economy in the future, so the U.S. exceeded minimal responsibilities and secured these resources. The same could easily have been achieved for the museum, and failing to anticipate or recognize a duty to do so betrays a unilateral or isolationist mindset.

Additionally, the U.S. incurred responsibilities as an occupier in Iraq. The 1907 Hague Convention affirmed that “territory [was] considered occupied when it [was] actually placed under the authority of the hostile army” and the occupation extends .... where such authority has been established and can be exercised.”<sup>145</sup> According to this, there was a strong argument that the U.S. was essentially an occupying power in Iraq “with

---

<sup>144</sup> Sandholtz, p. 237

<sup>145</sup> Paust, Jordan J. “The U.S. as Occupying Power Over Portions of Iraq and Relevant Responsibilities Under the Laws of War.” *The American Society of International Law Insights*. Vol. 1 (2003), p. 2.

competencies and responsibilities under the laws of war.”<sup>146</sup> A study just two months prior to the invasion by the U.S. Army War College reaffirmed this, stating that “occupiers assume responsibility for historic and cultural sites.”<sup>147</sup> The United States, therefore, had responsibilities to protect the museum. As such, national officials, such as high-level commanders, were potentially responsible for the 2003 looting. Low-level leaders, such as “a sergeant or a company commander on a combat mission in an Iraqi town, while hostilities are generally ongoing in that sector, cannot not easily shift from a combat role to the role of police officer .... But those much higher up in the chain of command, who see the larger picture and who can assign various missions to soldiers, have a responsibility to deploy troops to engage in law and order roles in sectors that come under control of U.S. military forces to the extent that such areas generally come under effective U.S. control and occupation law and order competencies can be exercised.”<sup>148</sup>

A third line of thought supporting U.S. culpability rests on the sentiment that crimes against culture are analogous to crimes against humanity.<sup>149</sup> The study of material culture depends entirely on items embodying a deeper set of meaning for individuals or groups. In the case of

---

<sup>146</sup> Paust, p. 1

<sup>147</sup> Stevens, Lt. Erin A. “The Cultural Sword: Leveraging Cultural Property in Iraq.” University of Military Intelligence, Fort Huachuca, AZ. (2008), p. 2.

<sup>148</sup> Paust, p. 4

<sup>149</sup> Stealing undiscovered history in Iraq. (2004, April 14). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

cultural property, it “carries significance far beyond the value of the object and appeals to a sector of the world’s population far beyond any individual owner.”<sup>150</sup> Later in 2003, the Iraqi Special Tribunal that was put in place to govern criminalized “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”<sup>151</sup> It follows, then, that crimes against cultural heritage could potentially be viewed as grievous as crimes against humanity.

If cultural treasures could be viewed as infrastructure connecting diverse people with a shared heritage, then the act of “analogizing cultural treasures to physical infrastructure is quite instructive. The historic and artistic treasures of a country are its cultural infrastructure. They are palpable pieces of its heritage, traditions, and identity, connecting its people one to another.”<sup>152</sup> If the United States’ aim was to liberate a nation and stamp out a history of crimes against humanity, it would, by the same token, be bound to eradicate crimes against cultural property and the remnants of cultural heritage as well.

Bolstering this jurisprudential belief that the U.S. violated international law is the opinion of the Iraqi people. The narrative of who is to

---

<sup>150</sup> Ralby, Ian M. “Prosecuting Cultural Property Crimes in Iraq.” *Georgetown Journal of International Law*. Vol. 37 (2005), p. 185.

<sup>151</sup> Ralby, pp. 183-184

<sup>152</sup> Sandholtz, p. 237

blame persists throughout the coverage of much of Al Jazeera's coverage, with US idleness or negligence being the predominate culprit. For instance, coverage claimed that the small size of the U.S. force near the museum and the tank round shot into it was their way of inviting the looting to exact revenge on the Baathists.<sup>153</sup>

### ***Arguments against a U.S. Violation of International Law***

Despite the depth and strength of this case, some legal scholars argued that U.S. actions did not amount to a violation of international law. These contentions rested on a literal reading of international conventions and the obligations under them.

There was a litany of justifications that officials cited as reasons the U.S. had no obligation to secure or protect the museum. Chief among them was the conviction that the U.S. presence in Iraq was not an occupation, but rather a liberation, as evidenced by it having never been proclaimed to be an occupation, as well as the fact that conflict was ongoing. These justifications, however, were only tenuously defended. Ultimately, wrote Jordan Paust, who is among the most cited of American law professors and has served on a number of committees regarding international law, human

---

<sup>153</sup> History ... another victim of occupation. (2003, October 23). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

rights, laws of war, terrorism, and the use of force, “regardless of the purpose of the overall mission, the lack of formal admission, and the fact that some fighting [was] still taking place, the United States [was] an occupying power with competencies and responsibilities under the laws of war ... in each portion of Iraqi territory that [fell] within effective control of its military.”<sup>154</sup>

Other defenders of U.S. policy argued that combating the civilian looting was a secondary concern to militarily controlling the Baathist stronghold of Baghdad, as well as that U.S. officials did not foresee that Iraqis would loot their own heritage in the first place.<sup>155</sup> The latter seems unlikely, given that weeks before the invasion commenced, the Archaeological Institute of America published an “Open Declaration on Cultural Heritage at Risk in Iraq” that was signed by thirteen organizations and more than two hundred individuals around the world; the president of the American Association of Museum Art Directors published an opinion-editorial piece in the *Washington Post* on the matter; and the president of the American Council for Cultural Property expressed concerns in writing to prominent war planners, including the Defense Secretary, National Security Advisor, and Secretary of State.<sup>156</sup> Put simply, “if the goal of the United States in invading Iraq was actually to

---

<sup>154</sup> Paust, p. 1

<sup>155</sup> Sandholtz, p. 197

<sup>156</sup> Sandholtz pp. 197-198

bring democracy and freedom, protecting cultural institutions would have been a meaningful show of goodwill.”<sup>157</sup>

Additionally, domestic U.S. antiquity laws—such as the Cultural Property Act and the National Stolen Property Act—prohibited and prevented the illicit import, export, or transfer of cultural property, and thus offered little assistance to prevent looting.<sup>158</sup> For instance, there remained some debate as to whether the U.S. was formally bound by the 1954 Hague Convention. As previously discussed, the U.S. had not signed the convention and was thus not a party to the 1954 Hague Convention at the time of the invasion of Iraq in 2003. Given, however, that the U.S. did claim to “follow its principles as a matter of customary international law,” it does seem appropriate for one to “consider the United States ... as bound by the provisions of the 1954 Convention,”<sup>159</sup> but a literal reading of the law would not necessarily ensure this.

Aside from literal readings claiming that international conventions were inapplicable, others argued that the U.S. adhered to relevant laws. Some pointed out that there still remained some confusion as to what U.S. forces

---

<sup>157</sup> Petersen, Kirsten E. “Cultural Apocalypse Now: The Loss of the Iraq Museum and a New Proposal for the Wartime Protection of Museums.” *Minnesota Journal of International Law*. Vol. 16 (2007), p. 191.

<sup>158</sup> Smith, William C. “Law versus Looters.” *American Bar Association Journal*. Vol. 89 (2003), p. 20.

<sup>159</sup> Gerstenblith, Patty. “From Bamiyan to Baghdad: Warfare and the Preservation of Cultural Heritage at the Beginning of the 21<sup>st</sup> Century.” *Georgetown Journal of International Law*. Vol. 37 (2006), pp. 299, 305.



were specifically charged to do, even if the United States was indeed bound by the 1954 Hague Convention. Second, U.S. defenders claimed that invading forces closely adhered to legal obligations during conflict by not actively engaging in the looting, nor causing willful damage to sites of historic significance, and avoiding risky appropriation of such sites without military necessity.<sup>160</sup> To this end, the Iraq National Museum, along with numerous other museums and archaeological sites were added to the no-strike list and escaped direct damage from the Coalition bombardment.<sup>161</sup>

Additionally, the convention only required the prevention of state-sponsored looting, not civilian looting as was seen in Iraq in 2003. While few are unconvinced of the responsibility to maintain public order and safety, there were some who questioned “whether preventing this type of looting is a tenet of maintaining public order.”<sup>162</sup> The wording of the convention also only required occupying forces to assist the national authorities in safeguarding artifacts, not to actually assume this responsibility themselves.<sup>163</sup> These claims ignore that, under some conditions, this may be near impossible for national authorities to accomplish, or the possibility that there might be no national authorities left in place to do so.

---

<sup>160</sup> Jackson, pp. 48, 50-51

<sup>161</sup> Detwiler, Elizabeth. “Iraq’s Cultural Heritage: Preserving the Past for the Sake of the Future.” *United States Institute of Peace*. October Briefing (2008), p. 1.

<sup>162</sup> Campbell, p. 426

<sup>163</sup> Gerstenblith, pp. 316-317

### *The Inadequacies of Legislation in Protecting Cultural Heritage*

Overall, the productiveness of this debate was limited. The events had already occurred and the majority of recoverable artifacts had been reclaimed. No formal charges against the U.S. have yet been levied, nor are there likely to be. More debate will not likely return more artifacts or repair the museum. This debate has effectively highlighted shortcomings in international conventions that address these situations.

To protect remnants of cultural heritage and property, international law on its own is patently inadequate as a means of deterrence. Such conventions are ultimately ineffectual without being backed by a legitimate national conviction to fulfill their intended purpose. Generally, significant loopholes in relevant international tenets include clarity of responsibility, being a party to the conventions, reliance upon burdened nations, the notion of military necessity, and being unclear in focus. These holes can, and did in the case of the museum, amount to a failure in international protections for protecting museums during wartime.<sup>164</sup>

For instance, one gap in international conventions concerns clarity of the responsibilities that ensue after an initial invasion. Obligations in stability operations remained less apparent. While the “requirement to assist ‘competent national authorities’ in ‘safeguarding and preserving [their]

---

<sup>164</sup> Petersen, pp. 179-187

cultural property' during periods of occupation" may be "relatively well settled," questions remain, such as not only "what is the extent of assistance to 'competent national authorities' that is required by international law?" but also "when does 'occupation' begin?"<sup>165</sup> In the case of the U.S. invasion of Iraq, "there is still considerable controversy to this day about when U.S. forces established effective control over the area of Baghdad near the museum, which would trigger the protection of an occupying force."<sup>166</sup> Additionally, even if "the legal obligations of cultural property protection in armed conflict have been scrupulously adhered to, the legal obligations to provide such protection in stability operations have been less clear,"<sup>167</sup> thus opening the door for a failure to occur.

Another large loophole in international law governing cultural heritage protection concerns parties to the international conventions and the responsibilities that ensue. Unfortunately, "the line between national and individual responsibility for the destruction of cultural property is tenuous."<sup>168</sup> When individuals commit such offenses, there is no guarantee that his or her nation will pursue prosecution. When nations commit such offenses, by the same token, the global community lacks an undisputed "formal and consistent

---

<sup>165</sup> Jackson, p. 48

<sup>166</sup> Jackson, p. 51

<sup>167</sup> Jackson, p. 56

<sup>168</sup> Thurlow, p. 183

prosecutorial or adjudicative body” capable of leading the way in terms of enforcement.

This lack of clarity regarding responsibility extends to nations as well. There are significant points of failure in international conventions such as the 1954 Hague Convention and the Roerich Pact relating to the safeguarding of cultural property. There are gaps concerning exactly when these tenets are applicable, what must be done under them, and what the penalties are for failure to comply with them. “The international conventions designed to protect cultural property fall short of mandating protection for all possible situations.”<sup>169</sup> The contestation over whether the U.S. was bound by these tenets is evidence enough of this deficiency, and the same is true of the contestation over what the U.S. was bound to do under these conventions and who, if anyone, may be formally held accountable. The question then arises, what to do when nations are not formally bound by the conventions and tenets in place governing cultural property?

Indeed, the current “standards of cultural property protection remain vague and open to multiple and competing understandings and invite parties to re-construe treaty obligations in ways that are politically or

---

<sup>169</sup> Paroff, Sasha P. “Another Victim of the War in Iraq: The Looting of the National Museum in Baghdad and the Inadequacies of International Protection of Cultural Property.” *Emory Law Journal*. Vol. 53 (2004), p. 2053.

militarily expedient.”<sup>170</sup> Given this inadequacy, cultural tragedies of large proportion such as the 2003 looting of the Iraq National Museum are bound to occur. The 1954 Hague Convention and its Protocols “can have little efficacy when it is not accepted by many countries throughout the world.”<sup>171</sup> That the U.S. had not ratified it at the time of the Iraq invasion, and did not until 2008, reveals the tenet’s limited effectiveness. While not having ratified it for so long indicates a unilateral spirit out of touch with the international community, it does not make it any less difficult to make nations culpable for violating treaties to which they are not formally a party.

Additionally, the convention “relies too much on the countries involved to protect their own cultural property.”<sup>172</sup> In order to accomplish this, nations must prioritize other preparations over artifacts ahead of conflict and leave less-equipped agents to fill in, while the international legal community often “offers little effective assistance.”<sup>173</sup> This can amount to an undue burden for many nations when preparing to face widespread armed conflict. In 2003, Iraq was charged with protecting its own artifacts leading up to the conflict. As noted previously, the remaining museum staff did a remarkable job making what preparations they could—removing some items for safekeeping elsewhere, securing larger immovable items to better weather

---

<sup>170</sup> Thurlow, p. 182

<sup>171</sup> Petersen, p. 179

<sup>172</sup> Petersen, p. 179

<sup>173</sup> Petersen, pp. 184-185

the Coalition bombing campaign, as well as arming and supplying themselves to protect the museum complex for a sustained period of time. They were, however, very quickly forced to flee the conflict and there was no formal Iraqi government left to protect the museum complex once the looting began.<sup>174</sup> The confluence of non-existent Iraqi forces and unwilling U.S. agents ultimately paved the way for the tragic looting of thousands of years of cultural heritage to occur.

The notion of “military necessity” also creates a dangerous hole in international conventions concerning the safeguarding of cultural heritage. Military necessity, in this context, allows forces to waive their obligations to refrain from actively exposing culturally significant sites when necessary. It holds that damage to culturally significant sites is excused when the warring parties had no other choice. Such an “exception for protection of cultural artifacts,” however, “further weakens the protections granted by the convention,” and many describe it as a “convenient fiction.”<sup>175</sup> As is often the case, the definition of what exactly constitutes military necessity was unclear. Legislation often grants discretionary power and creates an out for warring parties when it is “militarily inconvenient” to provide protection or convenient to destroy. An exception for military necessity effectively advertises the

---

<sup>174</sup> Petersen, pp. 180, 183

<sup>175</sup> Petersen, pp. 179, 181-183

secondary status of cultural heritage protection to a nation's military conquest in times of armed conflict.

Additionally, an imprudent focus can also be perceived in international conventions. Notably, there has been a “shift in international law from conceptualizations of cultural property as private property or the property of a nation-state to property of the international community and ‘individual peoples’.”<sup>176</sup> The Geneva Protocols and the Hague Convention, for instance, re-conceptualize cultural property as belonging to certain peoples, as opposed to nations or the world, because “national interests are divergent” and thus cannot be trusted to consistently protect the cultural property of all subgroups.<sup>177</sup> Taking this into account, U.S. policy did not succeed, at least partially, because it afforded protections to cultural property that were barely more stringent than those afforded regular private property.<sup>178</sup> Implicit in this malfunction is the failure to recognize that cultural property has vast importance *over* that of customary private property. This distinction between regular private property and cultural property cannot be overstated; the intrinsic higher value ascribed to cultural property underlies the entire international protocol for its protection during times of conflict.

---

<sup>176</sup> Thurlow, p. 156

<sup>177</sup> Thurlow, pp. 163-164

<sup>178</sup> Thurlow, p. 169

The tendency of international tenets having a reactive rather than a proactive focus is also problematic. There are still “limitations on the international community’s ability to prevent and prosecute acts against cultural property in times of war.”<sup>179</sup> Tenets such as the 1954 Hague Convention and later UNESCO conventions “focus too heavily on repatriation and the recovery of items” having cultural significance that are looted or damaged in armed conflict, when “the focus should be on the prevention of looting” in the first place.<sup>180</sup>

While it is laudable that such conventions require an occupying force to prevent the export of artifacts abroad and to return all artifacts found when the conflict ends, unfortunately, the damage has most often already been done during this process. Focusing on repatriation ignores “the number of artifacts that will be destroyed in the actual looting, let alone the destruction of the museum building and its fixtures.”<sup>181</sup> Furthermore, there are no guarantees that these looted artifacts may ever be found in recovery efforts. “When professional art thieves with great knowledge of the black market are involved,” as was the case with two of the three waves of looting in 2003 Iraq, “there is even less chance that pieces will be recovered.”<sup>182</sup> Indeed, many

---

<sup>179</sup> Paroff, p. 2041

<sup>180</sup> Petersen, pp. 179-180

<sup>181</sup> Petersen, p. 187

<sup>182</sup> Petersen, p. 187



museums that have been looted are still missing pieces decades after repatriation efforts began, and the Iraq National Museum no exception.

### ***The Necessity of Firm National Support in Cultural Heritage Protection***

Apart from underscoring the delicate balance within which cultural heritage protection exists, an international discussion is less important than resolution, whether the context is meaningful laws or meaningful enforcement. If the U.S. did not violate international law, then the effectiveness of heritage protection laws is significantly diminished. If the U.S. violated these laws, then these tenets have failed on the grounds of enforceability. Surely some governing body can enforce these rules during wartime, but the failure for this to have occurred in the wake of the 2003 looting of the Iraq National Museum speaks to a deficiency of enforcement. What we have learned in the wake of the looting is that protective laws are useful, though they must accompany legitimate national commitment in order to succeed.

The argument that U.S. actions did not violate international law demonstrates the limitations of international conventions and tenets alone. After all, recent operations in Iraq have “demonstrated the failure of the legal

mechanisms in ensuring such protection”<sup>183</sup> and shown how “international safeguards for cultural property have been ineffective in protecting museums.”<sup>184</sup> As the 2003 looting of the Iraq National Museum illustrates, “international attempts to protect cultural property have not immunized museums from looting and destruction. Just as the lives of an invaded people remain at risk during international conflict, so too are the artistic creations and archaeological remnants of those people likely to become the victims of that conflict.”<sup>185</sup>

International law is not enough to ensure protection of cultural property. Legal mechanisms offer insufficient protection for humanitarian concerns, including the preservation and protection of relics of cultural heritage. That cultural heritage continues to suffer during armed conflict, even as relevant conventions, pacts, and treaties have been in place for some time, provides evidence for this. That is not to say that international law governing the protection of remnants of cultural heritage should be ignored or abolished; rather, it highlights the bitter reality at play that “the law is necessary, but not sufficient, to protect humanitarian concerns in armed conflict.”<sup>186</sup>

---

<sup>183</sup> Jackson, p. 56

<sup>184</sup> Petersen, p. 164

<sup>185</sup> Paroff, p. 2022

<sup>186</sup> Jackson, p. 56

Put simply, international conventions aimed at preserving cultural heritage can do little until nations actually wish to do so. International conventions like the Hague Conventions of 1899, 1907, and 1954, as well as the 1977 Geneva Protocol I are indeed honorable examples of legislation. The “provisions of the conventions should not bear all of the blame,” but rather, “nations must share the blame for nonparticipation and noncompliance.”<sup>187</sup> “International laws, in whatever form and with whatever provisions, will only be effective in protecting the cultural property of the world when the great nations of the world decide that such property is worth protecting and act upon that decision.”<sup>188</sup> Only then will the necessary lasting commitments in the form of both fiscal and human resources result.

This would mark a significant change of direction for the United States. It would represent an alignment of U.S. norms with those of the international community. One way to accomplish this would be to exceed treaty obligations, which would be especially useful, given the “vagueness and ineffectiveness of international cultural property treaties.”<sup>189</sup> One of the most apparent means of observing this is the “sharp distinction between intentionally looting and destroying sites of cultural significance and the far

---

<sup>187</sup> Paroff, p. 2053

<sup>188</sup> Paroff, p. 2054

<sup>189</sup> Thurlow, p. 182

broader duty to protect cultural property.”<sup>190</sup> While U.S. actions may have fulfilled the former responsibility, they certainly fell short of the latter. The sentiment expressed by those advocating for a minimal fulfillment of responsibility that “the United States could have done much more to protect the museum” but, regrettably, “did all that was required under international laws of war”<sup>191</sup> must not be forgotten as this evolution of national doctrine occurs. Cultural heritage protection should then be a “key focal point in stability operations and counter-insurgency ... even if such protection is not required as a matter of law.”<sup>192</sup>

Such a spirit of fulfilling minimal obligations has contributed significantly to the notion of American callousness that hampers the nation’s international reputation and its progress in nation building abroad. From the events of April 2003, the United States learned that “intentionally destroying cultural sites is often conflated with negligently failing to prevent their destruction” and that in “real terms, it does not matter who destroys cultural property, it only matters that it is lost.”<sup>193</sup> While a minimalist commitment to compliance may “[prevent] some destruction of cultural property,” it “[fails] to speak to the larger values behind these rules.”<sup>194</sup> If the international tenets

---

<sup>190</sup> Thurlow, p. 179

<sup>191</sup> Paroff, p. 2023

<sup>192</sup> Jackson, p. 47

<sup>193</sup> Thurlow, p. 179

<sup>194</sup> Thurlow, p. 173

in place cannot fully ensure the fulfillment of this broader duty to protect, then exceeding these minimal responsibilities is the surest path forward. The U.S. must then, in the future, move beyond traditional obligations and pursue more active measures that “represent larger international and national ideals” in order to prevent the plunder of the remnants of cultural heritage.<sup>195</sup>

The United States has already made progress in this endeavor since the terrible events of 2003. One need only compare the nation’s initial invasion strategy to its more recent counter-insurgency strategy. U.S. policy makers and war planners began by spending most of their time and energy on the least demanding task—defeating Saddam’s weakened conventional forces—and the least amount on the most demanding—rehabilitation of and security for the new Iraq.” Hindsight has indeed shown that aside from the initial justification for the war proving false, “the most glaring error was the failure to plan for stability operations and post-conflict reconstruction.”<sup>196</sup>

Since 2003, however, armed forces have incorporated principles of cultural heritage protection into their counter-insurgency manuals. After all, “if the center of gravity of the counter-insurgency (COIN) fight is the people, then their cultural heritage is the conscience of the people ... and a visible

---

<sup>195</sup> Thurlow, p. 184

<sup>196</sup> Jackson, p. 51

symbol of their society.”<sup>197</sup> Now the U.S. COIN Manual emphasizes cultural awareness, training for soldiers in this arena, as “respect for cultural norms and objects has ... become an integral part of both counterinsurgency and stability operations.”<sup>198</sup> While this was not the case in 2003, it has been noted that “stability operations can only be successfully accomplished with integrated civilian and military efforts.”<sup>199</sup> The museum is an integral part of this, as this essay will subsequently discuss in greater detail.

Another path forward is to revise a more modern national policy regarding cultural property. At the time of the looting of the Iraq Museum, the official U.S. policy was in harmony with international conventions nearly one hundred years old. Such reliance upon outdated conventions not only leads to tragedies such as the 2003 looting, but it also “fails to recognize evolving understandings of culture and cultural ownership.”<sup>200</sup>

Additionally, “the world’s only superpower [remaining] a non-party to [the 1954 Hague Convention]” despite “the jurisprudence of international tribunals and the assessments of international law scholars [converging] on the conclusion that the key norms embodied in the [treaty] ... have achieved customary international law status”<sup>201</sup> was notable. While the

---

<sup>197</sup> Jackson, p. 47

<sup>198</sup> Jackson, p. 53

<sup>199</sup> Jackson, p. 55

<sup>200</sup> Thurlow, p. 185

<sup>201</sup> Sandholtz, p. 229

U.S. had not formally objected to or criticized any of the treaty's provisions, it nonetheless had not signed it. This underscored years of the U.S. having been unaligned with the international community.

The U.S. Senate ratified the 1954 Hague Convention in 2008, which partially aligned the nation with the international community. This outcome was undoubtedly influenced by the 2003 looting and the international community's subsequent condemnation. Ratifying the 1954 Hague Convention was meaningful in that it not only clarifies, but also reinforces the responsibility assumed by the U.S. to protect cultural property during periods of armed conflict.

Realigning its policies with widely accepted international norms, however, is not enough. As many practitioners and scholars of international law have noted, the mere "ratification of international treaties will not be enough to save the world's cultural property from destruction."<sup>202</sup> Rather, the United States must go one step further, adhering to both the word and the broader intent of these conventions and working to reform these tenets in order to continually become more substantive and effective as time progresses. The United States' doctrine relating to cultural property during wartime will certainly continue to evolve. Cultural property laws must be "explicit, rather than implicitly derived" from a series of other general

---

<sup>202</sup> Thurlow, p. 185

provisions, but too little progress has yet been made to this end.<sup>203</sup> As “doctrine assigning responsibility for protection of cultural property in stability operations is still evolving,”<sup>204</sup> the United States must play a leading role in this evolution to ensure its success. Only then might tragedies such as the looting cease.

U.S. officials must not assume that the nation has little interest in complying with international norms. Indeed, the opposite is true. “If the United States offends international sentiment by neglecting to respect national cultural property, it can expect an adverse impact on its diplomacy and global perception generally.”<sup>205</sup> Military victors “are already sufficiently reviled by those whom they have conquered without aiding—whether through action or inaction—the destruction of a conquered country’s culture.”<sup>206</sup> Protecting cultural heritage, then, can be a gesture of goodwill that may lend an air of legitimacy to such interventions.

If the United States’ “concern for cultural property is exclusively reserved for that of the Americas, then its concern runs counter to the purpose of” international tenets.<sup>207</sup> It also runs counter to U.S. national ideals. “The United States’ interest in the preservation of international cultural property

---

<sup>203</sup> Ralby, p. 188

<sup>204</sup> Jackson, p. 54

<sup>205</sup> Campbell, p. 425

<sup>206</sup> Petersen, p. 191

<sup>207</sup> Campbell, p. 431



should be strengthened in recognition of American diversity and the possibility, therefore, that many Americans may be tied to cultural property located outside the Americas.”<sup>208</sup> In this light, aligning the nation’s norms with the standards of the international community is indeed simultaneously in the best interests of the United States.

---

<sup>208</sup> Campbell, p. 431

### **III. Nationalism or Internationalism? The Conundrum Facing Cultural Heritage Protection Today**

*The previous section examined discussion that arose in the aftermath of the 2003 looting of the Iraq National Museum, with a focus on one of two main strands of debate—whether the U.S. violated international law by failing to prevent or halt the looting. This section will focus on the second strand of debate—whether a theory of cultural nationalism or internationalism is most appropriate in repairing the museum.*

*This section weighs the merits of museum reconstruction strategies rooted in both cultural nationalism or and internationalism. It will examine the pros and cons of each alternative and show that, despite each school of thought enjoying a considerable degree of support, the prevailing trend in modern years has been to lean toward more international approaches. It will also demonstrate how debate over the merits of culturally national or international reconstruction strategies reveal a bitter tradeoff between acting in the best interest of the global community or that of the recovering Iraqi nation.*

#### ***The Second Strand of Debate within the International Community***

As previously discussed, the 2003 looting of the Iraq National Museum generated considerable debate. From the dialogue emerged a consensus upholding the importance of protecting cultural heritage in times of strife or conflict. Still, important political, legal, and moral questions remained. Two recurring themes emerged: the first concerns whether the United States violated international law in failing to afford protection to the museum complex. The second addressed whether cultural nationalist or

internationalist approaches more appropriately should shape efforts to help to restore the museum.

### ***Cultural Nationalism vs. Cultural Internationalism***

Two principal schools of thought relating to material culture and preservation are cultural nationalism and cultural internationalism. Today the Iraq National Museum is open, though far from fully functional. Only about half of its galleries are accessible to the public.<sup>209</sup> A number of well-known items have been recovered and others continue to be returned, such as a statue of the Sumerian King Entemena recovered in 2010.<sup>210</sup> All but 254 of the 2,703 estimated to have been taken from the first and second floors have been recovered.<sup>211</sup> A renovation of the Islamic and Assyrian halls was completed with a donation and technical and assistance from Italy, though the strength of the museum's security remains to be determined.<sup>212</sup> Some former members of the staff disappeared after the war,<sup>213</sup> but those that remain continues its

---

<sup>209</sup> Lack of funds hinders Iraqi museum. (2010, September 25). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>210</sup> Iraq recovers lost artefacts [*sic*]. (2010, September 21). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>211</sup> Priceless museum items go missing. (2003, September 11). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>212</sup> Iraq reopens looted national museum. (2009, February 24). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>213</sup> Priceless museum items go missing. (2003, September 11). Al Jazeera.

mission, though a lack of funding hinders its efforts to preserve artifacts<sup>214</sup> and improper cataloguing may persist.<sup>215</sup> While these gains have been encouraging, much progress remains, and further plans are not concrete. Amid this, there is “heated debate over how Iraq’s heritage should be managed.”<sup>216</sup>

By way of classification, cultural nationalism tends to “[emphasize] the national origin of the cultural objects, with the goal of retaining all objects in their home country.”<sup>217</sup> This gives nations “a special interest, implies the attribution of national characters to objects, independently of their location or ownership, and legitimizes national export controls and demands for the ‘repatriation’ of cultural property.”<sup>218</sup> Implicit in cultural nationalism is the belief that source nations must be able to control the historical narratives that artifact aid in communicating, and some groups may choose to place value on the reworking, recycling, or omission of such narratives.<sup>219</sup> One basic justification is the ease of policing buyers of

---

<sup>214</sup> Lack of funds hinders Iraqi museum. (2010, September 25). Al Jazeera.

<sup>215</sup> Iraq reopens looted national museum. (2009, February 24). Al Jazeera.

<sup>216</sup> Lewis, Erin. “Gertrude Bell and Archaeology in Iraq: From World War I to the ‘War on Terror’.” *The Post Hole*. Issue 9 (2012), p. 19.

<sup>217</sup> Willis, Lindsay E. “Looting in Ancient Mesopotamia: A Legislation Scheme for the Protection of Iraq’s Cultural Heritage.” *Georgia Journal of International and Comparative Law*. Vol. 34 (2005), p. 229.

<sup>218</sup> Merryman, John Henry. “Two Ways of Thinking about Cultural Property.” *American Journal of International Law*. (1986), p. 67.

<sup>219</sup> Hamilakis, Yannis. “Iraq, Stewardship and ‘The Record’: An Ethical Crisis for Archaeology.” *Public Archaeology*. Vol. 3, No. 2 (2003), p. 108.

antiquities than protecting all objects of cultural value.<sup>220</sup> More fundamental motivations behind cultural nationalism stem from the belief that there “is an offense” to the country of origin if the objects reside in any other country.<sup>221</sup> Retaining such objects, in this view, supports the cultural growth and understanding of the source nation’s people and lures both sustained research and tourism to the source nation. On both the educational and economic levels, a “nation stays alive when its culture stays alive.”<sup>222</sup> Keeping objects in their source country enables that country to thrive commercially and culturally.

Cultural internationalism, on the other hand, emphasizes the common culture of mankind over the particular experience of any source nation alone.<sup>223</sup> Not surprisingly, such views undergird arguments against adopting culturally nationalistic legislation. The theory of cultural internationalism focuses on the proposition that “‘cultural property belonging to any people whatsoever’ is ‘the cultural heritage of all mankind’” and, under this, “everyone has an interest in the preservation and enjoyment of all cultural property, wherever it is situated, from whatever cultural or geographic

---

<sup>220</sup> Willis, p. 231

<sup>221</sup> Merryman, John Henry. “Thinking about the Elgin Marbles.” *Michigan Law Review*. Vol. 83 (1984), p. 55.

<sup>222</sup> Stone, Peter. “The Identification and Protection of Cultural Heritage during the Iraq Conflict: A Peculiarly English Tale.” *Antiquity – Oxford*. Vol. 79, No.306 (2005), p. 943.

<sup>223</sup> Willis, p. 232

source.”<sup>224</sup> The interest in protecting and preserving the objects are, therefore, placed above the interest of the nation of origin in retaining the object. The key players that promulgate such views are wealthier, often Western, nations and those who oppose the political element of cultural nationalism, feeling that uncontrolled nationalism “may distract from the cultural and historical importance of the objects.”<sup>225</sup>

Preservation of artifacts is a major concern for cultural internationalism. The theory aims to balance “the integrity of artifacts, or the need to have all pieces of particular artifacts together, to enhance their cultural, aesthetic, and educational values” with the bitter reality that often, “source nations do not have the resources to fully preserve the objects for future study and exhibition.”<sup>226</sup> Additionally, “an appropriate international distribution” of artifacts “of the common cultural heritage” can avoid “destructive retention,” “covetous neglect,” or the hoarding of artifacts in source nations that lack the proper resources,<sup>227</sup> while simultaneously facilitating the world’s cultures to both be exposed to and understand their own artistic, scientific, and civic achievements, as well as those of others, as

---

<sup>224</sup> Merryman “Thinking about the Elgin Marbles,” p. 57

<sup>225</sup> Willis, p. 231

<sup>226</sup> Willis, p. 232

<sup>227</sup> Merryman “Two Ways of Thinking about Cultural Property,” pp. 83-84

“all of mankind has a reasonable opportunity for access to its own and other people’s cultural achievements.”<sup>228</sup>

Each approach has strengths and limits. Cultural nationalism can often be best for the source country. This is largely due to realizing the economic benefit of tourism economics, fostering a national identity, providing a beneficial social education for citizenry, and preserving a sustainable future of domestic scholarship. Cultural internationalism, on the other hand, frequently safeguards the artifacts themselves and heritage preservation as a field of study. Internationalism often serves the artifacts when source nations are relatively poor and when the global community can enjoy more widespread access to the artifacts, thus fostering a broad sense of common heritage.

### ***Cultural Nationalism or Internationalism in Recovery Strategies for the Iraq National Museum***

Whether strategies based in cultural nationalism and cultural internationalism are more appropriate for recovery efforts for the Iraq National Museum has been frequently debated. There have been a number of heritage professionals who support each option, as well as some who advocate

---

<sup>228</sup> Willis, p. 233

for a mix of the two. Recently, debate has favored cultural internationalism. Not surprisingly, in keeping with the current trend, the literature on the Iraq museum to date overwhelmingly supports cultural internationalism.

### ***Arguments supporting Cultural Nationalism in the Museum's Recovery***

The main avenue of support for strategies rooted in cultural nationalism for the recovery of the Iraq National Museum is the belief that autonomous nations should be able to do as they wish with the remnants of their own cultural heritage. From a Rawlsian ethics approach, few countries would want to sacrifice such control. Additionally, with regard to the recovering Iraqi nation, the ability to retain its cultural property could “instill a notion of common heritage in the Iraqi people,” as well as “greatly uplift the spirits of the Iraqi people and aid them in forming a greater sense of national unity.”<sup>229</sup> In fact, a letter to the President of the United States from all major American archaeological and heritage organizations hinted at this, noting that the “return to freedom of the Iraqi people must include the freedom to enjoy the great heritage resources inherited from their ancestors.”<sup>230</sup>

From this degree of control of one's own cultural heritage stems the belief that culturally nationalistic legislative schemes can foster a

---

<sup>229</sup> Willis, pp. 249, 246

<sup>230</sup> Hamilakis, p. 106



connection with this past and thus a greater degree of unity in the present. Since cultural nationalism “encourages a national interest in the history and culture of the nation and, therefore, increases a people’s pride in their nation,” many believe that pursuing a recovery strategy rooted in cultural nationalism for the Iraq National Museum would benefit the Iraqi populace during this “state of upheaval and new beginnings.”<sup>231</sup>

An additional strain of underlying logic is that “retaining the nation’s cultural objects ... supports the cultural growth and understanding of the nation’s people” due to “the value inherent in the possession of the antiquities” to “lure archaeologists, scientists, and historians in the nation and from abroad.”<sup>232</sup> There is also financial benefit that may be realized from the development of cultural heritage tourism in source nations that merits mention.<sup>233</sup> Cultural tourism has been an incredibly lucrative industry in a number of countries—e.g., Egypt, Italy, France, and Greece—with their economies benefiting from a “constant flow of tourists flocking to see ... historical achievements in monuments, ancient ruins, and museums.”<sup>234</sup> This

---

<sup>231</sup> Willis, p. 243

<sup>232</sup> Willis, p. 230

<sup>233</sup> Stone, p. 941

<sup>234</sup> Stevens, Lt. Erin A. “The Cultural Sword: Leveraging Cultural Property in Iraq.” University of Military Intelligence, Fort Huachuca, AZ. (2008), p. 4.

positive economic impact has also been recognized by Britain's Department for International Development.<sup>235</sup>

Looking to history, this surely can be witnessed in the case of Iraq. For years, Iraq's sense of national identity has indeed been shaped by its cultural heritage. This trajectory can be traced back to British archaeologist Gertrude Bell, the wealthy Englishwoman who developed an appreciation for Mesopotamian while studying at Oxford and traveled extensively through the Middle East, surveying a number of the region's archaeological sites. Bell served in a number of British offices in the region both during and after World War I, was instrumental in establishing the pro-British Faisal monarchy, and eventually established what would become the Iraq National Museum.<sup>236</sup> The "sense of Iraqi nationalism that had guided [Bell's] politics transferred into her archaeological work," as her legacy began with an interest in archaeology but ultimately "became the achievement of unity for a people who live in separate factions."<sup>237</sup> Although she may not have been "the instigator of nationalist ideas in the country, for they were already emerging before WWII, [Bell] gave the people of Iraq control over their antiquities and therefore control over their past," which "gave the Iraqis a sense of national identity,

---

<sup>235</sup> Stone, p. 941

<sup>236</sup> Werr, Lamia Al-Gailani. "A Museum Is Born." *The Looting of the Iraq Museum, Baghdad: The Lost Legacy of Ancient Mesopotamia*. Harry N. Abrams (2005), pp. 27-28.

<sup>237</sup> Erin Lewis, pp. 17, 19

embodied in the museum she set up,” which proved to be “an essential component for [the] new country to be successful.”<sup>238</sup>

Prior to the war with the United States, Iraq’s previous legislation was also nationalistic in nature. The Antiquities Law of 1936, for example, declared all antiquities—defined as “movable and immovable possessions which were erected, made, produced, sculptured, written, drawn or photographed by man, if they are two hundred years old or more”—to be state property, prohibited their removal or damage by citizens, charged citizens with reporting such violations, and forbade excavation without state approval.<sup>239</sup>

Contemporary observers believe that adopting this previous legislation would encourage a greater popular interest in Iraqi history and culture. Aside from the substantial economic benefit from future cultural heritage tourism in the future, communicating the importance of this common heritage could lead to a larger measure of unity within the new Iraq, with the artifacts themselves helping to unite Iraqis.

---

<sup>238</sup> Fagan, Brian M. *Return to Babylon: Travelers, Archaeologists, and Monuments in Mesopotamia*. University Press of Colorado (2007), p. 276.

<sup>239</sup> Willis, pp. 237-242

*Arguments supporting the Museum's Recovery via Cultural  
Internationalism*

The main avenue of support for strategies rooted in cultural nationalism for the recovery of the Iraq National Museum is the belief in a shared global history that must be preserved for future generations. Since it “could be argued that ... Iraq’s heritage is essential to the common history of humankind,” many believe that “Iraq could gain the support of many peoples by exposing them to Iraq’s artifacts and history” and that the nation would thus “benefit greatly from the distribution of its artifacts, as [this] would allow other cultures and nations the opportunity to study and appreciate the Iraqi cultural heritage.”<sup>240</sup>

“Cultural heritage is important ... Not for any specific nationalistic agenda but for the explicit agenda of making the world a better, safer, more harmonious, and more civilised [sic] place to live.”<sup>241</sup> As a result, the belief that the remnants of a cultural heritage must be shielded from nationalistic agendas that distort the narrative of history is more than common. Nationalist approaches are common in nations “newly formed as the result of the dissolution of empires.”<sup>242</sup> Since modern-day Iraq would certainly be

---

<sup>240</sup> Willis, p. 246

<sup>241</sup> Stone, p. 943

<sup>242</sup> Cuno, James. “Antiquity Belongs to the World.” *Chronicle of Higher Education*. Vol. 54, No. 43 (2008), p. B8.

classified as one such nation, it is thus imperative to be aware of the peril that nationalism can pose to cultural heritage.

According to a number of scholars of cultural heritage, the culturally nationalistic stance is a political instrument. “Politics bedevils archaeology, and has for more than a century,” and the “sad truth is that nationalist cultural-property laws are not intended to protect the world’s ancient heritage,” but instead “are meant to claim that heritage as the property of the modern nation-state, important to its identity and esteem.”<sup>243</sup> If nationalistic cultural property laws do not protect the heritage, but rather claim it as a country’s property to “legitimize modern governments’ claims as heirs to an ancient past,” it is imperative to note that this “[distorts] the truth of culture,” by “[imposing] nationalist characteristics on antiquity when none could possibly exist,” making it appear that culture is static and pure when, in reality, it is “fluid and mongrel.”<sup>244</sup>

While it may be argued that nationalistic agendas may have made the Iraq National Museum one of the most valuable in the world, the perils of cultural nationalism can be seen today. Iraq’s new government has since reassigned the Iraq National Museum from being housed under the nonpolitical State Board of Antiquities and Heritage to now be located not

---

<sup>243</sup> Cuno, p. B9

<sup>244</sup> Cuno, p. B9

within the Ministry of Culture, but rather within the Ministry of Tourism and Antiquities under the control of the radical cleric Moqtada Al Sadr,<sup>245</sup> the same cleric who issued the ominous message that while Muslim heritage should be respected, looting of pre-Muslim relics was permissible.<sup>246</sup> Such a political maneuver poses grave danger to the long-term safety of cultural heritage. Radical sectarian groups influencing the populace to be “only interested in Islamic sites and not Iraq’s earlier heritage” has already led to the physical destruction of eighteen heritage sites within Iraq, most notably at Kirkuk and Kifel.<sup>247</sup> Worries about what could happen to the museum are, therefore, not unfounded. A group of international archaeologists noted this and urged the new Iraqi government to put its cultural heritage under the Ministry of Culture, as “only a strong, national, nonpolitical State Board of Antiquities and Heritage, backed fully by the force of the State, can preserve the heritage that is left.”<sup>248</sup>

Past evidence supports the benefit of cultural internationalism for cultural heritage protection in Iraq. “In the past most archaeological digs in Iraq have had foreign sponsorship—the Germans at Babylon and Uruk, the British at Ur and Nimrud, the French at Kish and Lagash, the Italians at Hatra,

---

<sup>245</sup> Cuno, p. B8

<sup>246</sup> Jenkins, Simon. “In Iraq’s Four-year Looting Frenzy, the Allies Have Become the Vandals.” *The Guardian*. Vol. 6, No. 8 (2007), p. 2.

<sup>247</sup> Jenkins, p. 2

<sup>248</sup> Cuno, p. B8

and the Americans at Nippur.”<sup>249</sup> This background has paved the way for many scholars to advocate for such a strategy of international assistance in the museum’s recovery.

Many see this responsibility as being in the public interest. Preserving a communal worldwide history then follows this model of balancing “the inescapable tensions between current uses and future needs and between private interests and mutual interests.”<sup>250</sup> For many, there is “no better illustration of the world-wide recognition of the legacy obligation to future generations than the international reaction to the looting of Iraq’s National Museum of Antiquities during the spring of 2003.”<sup>251</sup> After all, public management is a field that surely encompasses a state’s cultural heritage professionals. The responsibilities of an effective public manager speak to his or her “responsibility to future generations,” which entails “ensuring a viable future by preserving resources and ensuring the capacity to ... preserve and transmit civilization’s cultural, intellectual, artistic, and historical legacy.”<sup>252</sup>

---

<sup>249</sup> Bogdanos, Matthew. “Fighting for Iraq’s Culture.” *New York Times*. (March 6, 2007).

<sup>250</sup> Lewis, Carol W. “In Pursuit of the Public Interest.” *Public Administration Review*. Vol. 66, No. 5 (2006), p. 699.

<sup>251</sup> Carol Lewis, p. 698

<sup>252</sup> Carol Lewis, p. 695

***The Regrettable Conundrum Facing Cultural Heritage Protection and Preservation in the Iraq National Museum Recovery***

This debate between strategies rooted in cultural nationalism or internationalism in the recovery of the Iraq National Museum reveals a tradeoff that frequently escapes recognition, let alone discussion, with regard to the museum. Specifically, this tradeoff lies, on the one hand, between the best interests of the artifacts themselves along with long-term efforts to cultivate and foster a global sense of cultural heritage; on the other hand lays the best interests of the Iraqi nation as it recovers from the last decade of warfare and the last twenty years of international sanctions. This author favors a hybrid approach by which some artifacts would remain in-country to serve the Iraqi people while national turmoil persists and others would be able to travel abroad to safeguard them from physical harm and foster international solidarity with the recovering nation.

Across the globe, the recent trends have favored cultural internationalism. The recovery of the Iraq National Museum is no exception. With regard to the artifacts themselves, the physical remnants of cultural heritage often enjoy increased protection and an improved degree of conservation when removed from source nations experiencing either armed conflict or significant economic strife. After all, this decreases the likelihood of damage due to bombardment and other martial movements, as well as



damage from neglect, as source nations are forced to make difficult decisions regarding resources. Such concerns are indeed “especially relevant in Iraq, where resources have been, and are currently being diverted to the pressing problems of the population and the economy.”<sup>253</sup> In such dire situations and the difficult decisions that they beget, artifacts can most surely be expected to hold a lower priority than preserving human life. “Because lives are lost in war, the goal of protecting property is controversial,” and though “the codification of the laws of war has attempted to protect, as much as possible, cultural property within an invaded nation,”<sup>254</sup> as it has often been deemed a secondary concern to preserving human life, the “effect of war, poverty, political chaos, and instability on cultural heritage can be and often is devastating.”<sup>255</sup>

Additionally, with regard to cultural heritage preservation as a field of study, the artifacts and the heritage that they embody may enjoy a larger audience. By virtue of its physical remnants being exhibited to a larger audience abroad, Iraqi heritage could reach more individuals and communities than if they remained within Iraq’s borders. Such circulation has the realistic

---

<sup>253</sup> Willis, p. 245

<sup>254</sup> Paroff, Sasha P. “Another Victim of the War in Iraq: The Looting of the National Museum in Baghdad and the Inadequacies of International Protection of Cultural Property.” *Emory Law Journal*. Vol. 53 (2004), pp. 2021-2022.

<sup>255</sup> Gerstenblith, Patty. “From Bamiyan to Baghdad: Warfare and the Preservation of Cultural Heritage at the Beginning of the 21<sup>st</sup> Century.” *Georgetown Journal of International Law*. Vol. 37 (2006), p. 350.

potential to foster a wider appreciation for both Iraqi cultural achievements and those of Middle Eastern culture in general, at a time when this appreciation could be translated into more widespread support for the nation as it recovers from decades of oppression followed by years of armed conflict.

This more widespread enjoyment and admiration of Iraqi cultural accomplishments could, in turn, pave the way for increased solidarity in the international community with Iraq as the nation continues down the course of recovery. Such reconstruction can foster cultural heritage tourism, not to mention the social benefits for Iraqis from sparing destruction of common heritage amid the tribulations of modern conflict.

Though museum science in recent years has favored cultural internationalism, its benefits come with a cost; they may pose the threat of damage in another more intangible way. The cost of employing cultural internationalism in the museum's recovery comes in the form of the loss of cultural nationalism's benefits—namely, damage to the autonomy and sovereignty, collective identity, and long-term cultural heritage of the recovering Iraqi nation.

While the heritage may enjoy a larger audience by virtue of its physical remnants being exhibited to a larger audience abroad, and thus foster a wider appreciation for Iraqi and Middle Eastern culture, the benefit of exposure to this heritage they represent can have on the Iraqi people in terms

of their national identity, pride, and social education amid calamity and strife may become sacrificed. “Cultural heritage preservation depends on its ability to serve and build constituencies in the population,”<sup>256</sup> and this already difficult task becomes yet more arduous when the remnants of heritage are dispersed away from the population that needs this service. For these reasons, there is indeed a case for pursuing a culturally nationalistic approach in advancing the Iraq National Museum’s recovery.

Within the camp of scholarship promoting a museum recovery strategy rooted in cultural nationalism, advocacy for “the connectedness of the Iraqi people, themselves” being “the priority in deciding where to display Iraq’s artifacts”<sup>257</sup> has been the central premise. The museum “has been a symbol of [their] emerging identity for all Iraqis, regardless of religious or tribal affiliation.”<sup>258</sup> While such a national identity may be difficult to define and a purely common past may be difficult to identify, an “emphasis on the unity and history of the people of Iraq would be extremely beneficial to the Iraqi population” during this “state of upheaval and new beginnings,” and “the Iraqi people would benefit from the retention and proud display of their cultural property.”<sup>259</sup> A museum recovery strategy rooted in cultural

---

<sup>256</sup> Hitchcock, Ann. “Through the Fog of War in Iraq: Lessons Learned in Heritage Preservation.” *The George Wright FORUM*. Vol. 20, No. 4 (2003), p. 37.

<sup>257</sup> Willis, p. 246

<sup>258</sup> Fagan, p. 341

<sup>259</sup> Willis, p. 243

nationalism could feasibly be the first step in advancing toward this outcome. This includes the financial benefit that cultural nationalism may pose for the recovering Iraq. The ability to draw scholars of a variety of disciplines from both within and without of Iraq can lead to the “development of cultural heritage tourism for local developing economies in Iraq,” and could form the basis for a “public relations and education campaign with local Iraqi people as to the long-term economic value of their heritage to them.”<sup>260</sup>

This tradeoff between acting in the best interest of the global community and acting in the best interest of the nation of Iraq exposes colonial undertones in the debate. In this sense, the “notion of stewardship can be “suspiciously self-serving.”<sup>261</sup> While advocating for the cultural property to be in the international community as opposed to the source nation of Iraq, however altruistic the intentions may be, the world risks re-inscribing the colonial way of thought that has been present for years. Promoting “the notion that the Iraqi past is ‘our’ past” may give way to engaging in “a rhetorical strategy of appropriation.”<sup>262</sup> This notion of a common past is rooted in Orientalism, which Edward Said and other scholars have defined as a Western interpretation of the East deeply influenced by a European imperial mindset and by which the West has defined itself through the lens of

---

<sup>260</sup> Stone, p. 941

<sup>261</sup> Hamilakis, p. 107

<sup>262</sup> Hamilakis, p. 108

comparison with the East. After all, what it is really referencing a specific portion of Iraq's past— "a selective and constructed past, the past that in the Western imagination has occupied a central position because of its biblical connotations, or its links to urbanism and early writing."<sup>263</sup>

What may result is the "construction of Iraq as a country of the past, living in another time, a country that is 'not immanent [*sic*] to modernity'—hence the frequent evocations of Mesopotamia."<sup>264</sup> This is indeed a "colonial way of thinking,"<sup>265</sup> or at least a method of thought reminiscent of colonialism. By focusing on the promotion of a global sense of cultural heritage, as opposed to what may be in the best interests of the recovering Iraqi nation, the world risks potentially putting the interests of the developed Western world first at the expense of the developing Eastern world, much as colonialism did in Iraq during the previous century.

Unfortunately, an overwhelming amount of discussion has not acknowledged this colonial issue with regard to the Iraq National Museum's recovery. The relationship between states and museums has only recently begun to be explored within the Western context, and is even newer in the Middle East.<sup>266</sup> While the issue of repatriation has indeed been addressed

---

<sup>263</sup> Hamilakis, p. 108

<sup>264</sup> Hamilakis, pp. 107-108

<sup>265</sup> Cuno, p. B6

<sup>266</sup> Davis, Eric. "The Museum and the Politics of Social Control in Modern Iraq." *Commemorations: The Politics of National Identity* (1994), p. 90.

concerning many of the previous century's armed conflicts, it has not entered the discussion of the Iraq National Museum with frequency. The bulk of discussion has consisted of Western advocacy for the merits of internationalist approaches in the museum's recovery, employing foreign aid and sponsorship in the name of protecting artifacts that are held sacred for patently Western values. What this overlooks is that, although many Arab societies trace their origins to ancient civilizations, they are often ruled by states created relatively recently by colonial powers, and there will often be calls "to 'purify' the historical record that nationalists view as having been distorted by colonialism."<sup>267</sup> Blindly ascribing to cultural internationalism can rob the Iraqi nation of the opportunity to do this and to forge a new identity as it recovers from years of strife, perhaps reviving a new brand of colonialism in the twenty-first century. At the same time, strict adherence to principles of cultural nationalism, however, may limit the appreciation of the artifacts themselves and deprive them of a place in the international community's growing sense of global heritage.

---

<sup>267</sup> Davis, Eric. *Memories of State: Politics, History, and Collective Identity in Modern Iraq*. University of California Press (2005), pp. 1, 19.

#### **IV. The Iraq National Museum's Past Ability to Divide and its Future Potential to Unify**

*This section will demonstrate that, like all museums, the Iraq National Museum has had a long history of being employed as a political instrument. This portion will also demonstrate that despite a track record of division, the museum nonetheless retains a tremendous potential to sow the initial seeds of unification. This discussion will show how this potential to unify encompasses both a return to normalcy and a fostering a unifying sense of national identity, diversity, and heritage in post-war Iraq.*

*As a result, the museum and its collections will certainly prove valuable in the recovery of the Iraqi nation from the U.S.-led war. In this process, the museum will act as a weather vane of progress during the reconstruction. The museum's potential must be harnessed by both scholars and policymakers in the United States, the new Iraq, and the world over as recovery from war advances.*

##### ***Museums as Political Instruments***

It has been well established that museums have long served broad social, cultural, educational purposes. We have learned from this analysis that museums are also frequently used as political instruments. The Iraq National Museum has certainly been no exception to either of these realities. Ever since its inception, the Iraq National Museum has had a long history of being employed as a political tool by British, Baathist, and most recently American, anti-coalition stakeholders, and cultural heritage professionals as well. The “unifying thread in this battle over Iraqi archaeology is power—economic, cultural, and political power—and how people have used these powers to

manipulate archaeology in order to preserve their authority and/or to maximize their access to archaeological finds.”<sup>268</sup>

Since the war began in 2003, both the looters and their stolen items have both reinforced the museum’s status as a symbol of state power. The museum’s appropriation by various stakeholders for self-preservation has been central to discussions of the United States’ failure to anticipate and prevent the looting. Additionally, the resulting discussion concerning the merits of pursuing a museum recovery strategy rooted in either cultural nationalism or cultural internationalism has continued the museum’s history of being appropriated politically.

The looting underscores that, in Iraq as well as elsewhere, cultural heritage is connected to politics. “Ultimately, the demolition of much of Iraqi archaeological heritage was emblematic of the ruinous and violent politics of recent Iraqi history.”<sup>269</sup> During peacetime, heritage engaged civil officials to promote national unity. During wartime, not only opposing militaries but downtrodden citizens appropriated and destroyed heritage objects. During the recovery from this conflict, the museum has been used by scholars and policymakers alike to both condemn and uphold controversial political agendas.

---

<sup>268</sup> Bernhardsson, Magnus T. *Reclaiming a Plundered Past: Archaeology and Nation Building in Modern Iraq*. University of Texas Press, 2006, pp. 4.

<sup>269</sup> Bernhardsson, p. 3



Given its political resonance, the Iraq National Museum, like all museums, can be exploited for division or unification. The Iraq National Museum nonetheless retains a tremendous potential to sow the seeds of a nascent unity. It is imperative that this potential be recognized and harnessed by not only scholars, but policymakers as well, in both the United States and the new Iraq, as well as in the international community, as recovery from the years of war progresses.

### *The Museum's Proven Ability to Divide*

The Iraq National Museum has been used as an instrument of politics ever since its inception. Looking back to the British formation of modern-day Iraq and installation of the British-sponsored Faisal monarchy, Gertrude Bell exerted a great deal of influence during this time on the formation of the museum and its evolution within the country's Ministry of Public Works.

The location of the Museum within this Ministry is meaningful. According to Bell's legislation, the Department of Antiquities, and thus, the museum, was placed under the Ministry of Public Works rather than the Ministry of Education.<sup>270</sup> This implied that the museum provided a public

---

<sup>270</sup> Bernhardsson, p. 126

service to citizens—a service less tangible than, perhaps, sanitation or utilities, but no less important. This service provided by the national museum was the beginnings of a national identity.

Indeed, archaeology has played a central role in the development of Iraqi national identity. “Ruling elites” had long “manipulated the past” for this purpose in Iraq.<sup>271</sup> Gertrude Bell and her contemporaries were essentially resurrecting the Mesopotamian past for this purpose. Linking archaeology with identity continued during the Baathist regime from 1968 to 2003. During this time, Saddam Hussein rose to power in 1979 and employed the museum’s collections to portray himself as the heir to ancient Babylon, and the perception of the museum as a physical manifestation of Baathist power would later come to fuel a large portion of the looting and destruction that took place in April 2003. The looting and destruction that the citizen looters wrought upon the museum was the most obvious confirmation of this connection, with the destruction being a visible manifestation of the internal anger and frustration felt by generations oppressed by Baathist policies.

In the years after the initial invasion, during the longer period of insurgency, factions within Iraq’s fledgling government appropriated the museum to sow both anti-occupation discord and self-advancement. With the

---

<sup>271</sup> Joffe, Alexander H. “Museum Madness in Baghdad.” *Middle East Quarterly*. (Spring 2004), p. 32.

State Board of Antiquities and Heritage being directed by two ministries—the Sunni-controlled Ministry of Culture and the Shiite-run Ministry of Tourism and Antiquities— “politically motivated efforts have rendered it virtually ineffective.”<sup>272</sup> It is with relative ease that one can perceive how the museum, despite being an institution “designed to protect Iraq’s cultural heritage,” by virtue of falling under the jurisdiction of this now-factional State Board of Antiquities and Heritage, “[had become] exploited” by rival factions “for political gain.”<sup>273</sup>

As the new government took shape, the museum’s new location became notable. In 2006, “the museum was reassigned to the Ministry of Tourism and Antiquities under the control of the radical Shiite cleric Moktada al-Sadr” while international archaeologists urged the new Iraqi government to place its cultural heritage under the Ministry of Culture where a “strong, national, nonpolitical State Board of Antiquities and Heritage, backed fully by the force of the State, [could] preserve the heritage that [was] left.”<sup>274</sup> The museum and its contents occupy a central place in the economic and symbolic benefits of heritage tourism. Many observers, however, remain skeptical and question what portion of this maneuver may have been accomplished to

---

<sup>272</sup> Detwiler, Elizabeth. “Iraq’s Cultural Heritage: Preserving the Past for the Sake of the Future.” *United States Institute of Peace*. October Briefing (2008), p. 2.

<sup>273</sup> Detwiler, p. 2

<sup>274</sup> James Cuno “Antiquity Belongs to the World: Archaeology Must Be Shielded from Nationalistic Laws and Politics.” *Chronicle of Higher Education*. Vol. 54, No. 43 (2008), p. B8.

maintain Shiite control of the museum after years under Sunni Baathist control.

Additionally, during this time, public officials tellingly drew the distinction between Islamic artifacts and Mesopotamian artifacts, granting permission for citizens to loot Mesopotamian artifacts but not Islamic ones.<sup>275</sup> The implication was that the Islamic heritage was not lootable, presumably by virtue of it being sacred, while the pre-Islamic Mesopotamian heritage was lootable by virtue of it being profane in comparison.

Furthermore, “there is a significant link between smugglers of cultural property and smugglers of weapons.”<sup>276</sup> United States officials have frequently caught insurgents in possession of both weapons and antiquities. In fact, the illicit trade in antiquities has become a growing source of revenue for insurgents to fund terrorism as more traditional means have been combated.<sup>277</sup> Long after the invasion, “the scenario [had] been repeated many times,”<sup>278</sup> as security forces pursued leads for weapons and insurgents, they frequently found antiquities, finding “vases, cylinder seals, and statuettes” along with other “tools of their trade,” such as automatic weapons, ammunition, and

---

<sup>275</sup> Jenkins, Simon. “In Iraq’s Four-year Looting Frenzy, the Allies Have Become the Vandals.” *The Guardian*. Vol. 6, No. 8 (2007), p. 2.

<sup>276</sup> Huang, Edythe E. “Looting in Iraq, Five Years Later: An Evaluation of the International Protection, Recovery, and Repatriation of Looted Cultural Artifacts.” *Rutgers Race and the Law Review*. Vol. 10 (2008), p. 190.

<sup>277</sup> Bogdanos, Matthew. “Thieves of Baghdad: Combating Global Traffic in Stolen Iraqi Antiquities.” *Fordham International Law Journal*. Vol. 31 (2007), pp. 730-731.

<sup>278</sup> Bogdanos (2008), p. 730

uniforms.<sup>279</sup> Government agents have been keen to point out the use of heritage as a weapon in this struggle. The association indicates this obscured reality. Symbolically, artifacts were being collocated with weapons because the cultural heritage embodied within these artifacts was itself also being employed as a weapon.

Within Iraq, coalition members, mainly United States soldiers and officials, were also complicit. For many, their “collusion in such destruction” of Iraq's heritage was “a scandal that will outlive any passing conflict.”<sup>280</sup> This encompassed their role in the looting and destruction by virtue of neither anticipating it nor halting it, as well as any shortcomings in artifact recovery efforts.

Outside of Iraq, the museum was also used as a device to either condemn or justify U.S. foreign policy around the 2003 invasion. Opponents and critics of U.S. foreign policy used the museum and its plight as a device to condemn U.S. war efforts. As the invasion approached, “archaeologists often played a role in campus teach-ins and off-campus protests” and thus “cast their opposition to the war in terms of the war’s threat to the common heritage of mankind ... claiming that the entire country of Iraq had to be treated like a

---

<sup>279</sup> Bogdanos (2008), p. 730

<sup>280</sup> Jenkins, Simon. “In Iraq's Four-year Looting Frenzy, the Allies Have Become the Vandals.” *The Guardian*. Vol. 6, No. 8 (2007), p. 2.

museum piece.”<sup>281</sup> Tragically, this aversion to appearing complicit in the war effort led hesitation among some to risk the perception of endorsing the invasion by offering hands-on aid to the U.S. in taking more widespread precautionary measures to protect the museum.

Many heritage professionals questioned whether it was ethical to work with the military, specifically in situations such as the contested Iraq war. A number of archaeologists were disinclined to work with military. Chief reasons for this stance included the claims that all of Iraq is “a vast archaeological site” and that “providing a list of selected sites” to avoid might give the armies “carte blanche” to operate destructively elsewhere, that collusion itself was “a political ... gesture” since no invasion could ever be justified,<sup>282</sup> as well as that advising administration officials with regard to cultural property amounted to collusion in the war’s preparation and thus provided “academic and cultural legitimacy” to the invasion.<sup>283</sup>

In this dialog, the museum became exploited by a number of foreign stakeholders. As previously discussed, one need only look to supporters of the American war effort at home criticizing the exaggerated claims that resulted from the looting and critics of the invasion using the

---

<sup>281</sup> Joffe, p. 34

<sup>282</sup> Curtis, John. “Relations between Archaeologists and the Military in the Case of Iraq.” *Papers from the Institute of Archaeology*. Vol. 19 (2009), p. 5.

<sup>283</sup> Hamilakis, Yannis. “Iraq, Stewardship and ‘The Record’: An Ethical Crisis for Archaeology.” *Public Archaeology*. Vol. 3, No. 2 (2003), p. 107.

events at the museum to highlight the cultural tragedy of the looting in order to witness the degree to which many used the plight of the museum during the conflict to offer either support or condemnation of the administration's policies. While this may not be the same tangible level of appropriation that states and armies have practiced with the museum in the past, it is nonetheless self-serving in the same manner.

The White House's and State Department's act of initially downplaying the disaster revealed its underlying anger and embarrassment, and the decision to open the museum for a two-hour media event in July 2003 revealed the administration's "[eagerness] to put the controversy behind them."<sup>284</sup> Those supporting the war also voiced an alarmingly wide array of inaccurate narratives concerning the looting to justify the U.S. decision to invade—e.g., that the Iraqi populace must not have cared about their own heritage since they chose to plunder it, or that the Iraqis took such pride in their heritage that they were compelled to symbolically seize it back from the Baathist regime and protect it from destruction in the fog of war.

In this light, the employment of the museum for purposes of propaganda emerges—an action that did not go unnoticed by the Iraqi people. Some Middle Eastern news commentary lamented the positive propaganda

---

<sup>284</sup> Lawler, Andrew. "Mayhem in Mesopotamia." *Science*. Vol. 301 (August 2003), pp. 587-588.

messages coming from the U.S. officials,<sup>285</sup> in contrast with the “horrid” looting and “atmosphere of lawlessness” stemming from inadequate patrolling after the fall of Baghdad.<sup>286</sup> The new Iraqi government, however, did no better. Six years later, like the United States, Prime Minister Nouri al-Maliki held another reopening ceremony for the museum and declared his administration’s desire for the museum to be “at the forefront of international museums” and for Iraq to be a “Mecca for research” into the history of mankind.<sup>287</sup> Some coverage was keen to note the political opportunism behind this reopening, remarking how it was done “in haste for political purposes to boost [the prime minister’s] image and demonstrate to the public that life [was] returning to normal in Iraq.”<sup>288</sup>

Turning to cultural heritage professionals, many find such individuals to remain the only unblemished party. Indeed, the efforts of Dr. George and the small staff that remained were commendable, as were the efforts of numerous heritage professionals who advocated for the museum amid the calamity, but after years of Baathist collusion, avoiding any sense of complicity is difficult for the museum as an institution. The majority of

---

<sup>285</sup> US gives world ‘happy’ Iraq news. (2003, June 8). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>286</sup> Bremer: Not enough troops in Iraq. (2004, October 5). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>287</sup> Iraq reopens looted national museum. (2009, February 24). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>288</sup> Reopening Iraq’s museum. (2009, March 14). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.



scholars have remained convinced of the curators' blamelessness, remarking that "they may have been Baathists, but they weren't criminals."<sup>289</sup>

Unfortunately, however, the appearance of impropriety is often conflated with impropriety itself, a sentiment that has no doubt cast a cloud over the institution of the museum.

Museum and heritage professionals, thus, are not entirely exempt from culpability in appropriating the museum for their own benefit. Scholarly exploitation of Iraq is indeed a reality. Western professors have occasionally been caught smuggling artifacts out of Iraq, something which Middle Eastern news outlets have made a point of highlighting.<sup>290</sup> In addition to this, a significant number of heritage professionals effectively "leveraged guilt into resources" by "[producing] shock and grief at [the] loss of such unprecedented magnitude" and "[provoking] rage at the cultural callousness of the United States in failing to prevent this predictable tragedy."<sup>291</sup> Some good arguably stemmed from this. After all, there is "more interest in Mesopotamian archaeology now than there ever has been,"<sup>292</sup> and there is "a significantly

---

<sup>289</sup> Curtis, p. 3

<sup>290</sup> Iraqi museum gets priceless pieces back. (2005, January 19). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>291</sup> Joffe, pp. 38-39

<sup>292</sup> Joffe, p. 38

greater awareness ... of the importance of the cultural heritage and the responsibilities” of governments “to protect it.”<sup>293</sup>

Despite the good stemming from this, one could also make the case for it having engendered some bad as well. Though scholars gained favorable interest in the issue, it was arguably unethical, however, to disguise self-interest as service to humanity. Furthermore, years of association with the Baathist regime can be viewed as unethical. This produced an appearance of corruption or impropriety with Baathists on staff and Hussein relatives in leadership that many journalists have referred to as a “cloud [hanging] over the museum.”<sup>294</sup>

Additionally, the biased response of Western archaeologists in favor of access to excavations at any cost obfuscated years of “continual complicity with the [Baathist] regime.”<sup>295</sup> It is no secret that Saddam Hussein’s obsession with Babylonian heritage created ideal working conditions for Western archaeologists, which many capitalized upon while turning a blind eye to the regime’s brutal actions elsewhere. While this was not true of all archaeologists in Iraq, it was prevalent enough to trigger cries of archaeology unethically mingling with regimes and armed forces. Given the

---

<sup>293</sup> Stone, Peter. “The Identification and Protection of Cultural Heritage during the Iraq Conflict: A Peculiarly English Tale.” *Antiquity*. Vol. 79 (2005), p. 942.

<sup>294</sup> Lawler, p. 585

<sup>295</sup> Joffe, p. 31

application of such leverage after years of complicity, the “pursuit of self-interest” appears to have been disguised “beneath the language of service to the heritage of humankind or the Iraqi people.”<sup>296</sup>

Ultimately, this amounted to a sacking of the culture reminiscent of colonialism that continues today. Though not frequently mentioned in the discourse, the irony behind the American administration seeking to protect artifacts that it had put in danger in the first place was palpable.<sup>297</sup>

Additionally, recalling that the notion of a shared heritage was the motive voiced by many to protect Iraq’s cultural property, it cannot be ignored that this was a “rhetorical strategy of appropriation” that aided in the “construction of Iraq as a country of the past, living in another time, a country that is ‘not immanent [*sic*] to modernity’.”<sup>298</sup>

Al Jazeera coverage in the aftermath of the looting underscores this. This commentary showed how the Iraq National Museum was not the only bastion of heritage that suffered from the looting. Rather, smaller regional museums, archaeological sites, libraries, and heritage institutions suffered no less. Some coverage focused on the loss of film heritage, noting how the looting of public institutions destroyed the national theatre and

---

<sup>296</sup> Joffe, p. 40

<sup>297</sup> Stone, p. 939

<sup>298</sup> Hamilakis, pp. 107-108

destroyed master reels of the earliest Iraqi films forever.<sup>299, 300</sup> The coverage also paid a fair amount of attention to site looting in Iraq. By 2004, Middle Eastern commentators noted how the museum was last year's focus and how the looting of smaller museums in southern Iraq by increasingly organized gangs<sup>301</sup> and unexcavated site looting were the more current travesties against heritage.<sup>302</sup> Reports of the World Monument Fund declaring all of Iraq to be "an endangered site"—the first time this had been declared for an entire country—underscored the attention paid to cultural heritage not housed within the national museum.<sup>303</sup>

Furthermore, former Director of the Iraq National Museum Dr. Donny George voiced his opinion that the British Museum was the obvious partner in helping the museum recover from this tragedy.<sup>304</sup> Considered in tandem with success stories focusing on high-value items missing from museum profiles on high profile items, such as the Warka Mask being recovered with the help of "saviors" like a New York prosecutor and

---

<sup>299</sup> Iraq's film veterans lament loss. (2006, July 3). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>300</sup> Iraq war flick marks industry comeback. (2003, October 1). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>301</sup> Looters target Iraq antiquities. (2010, July 6). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>302</sup> Stealing undiscovered history in Iraq. (2004, April 14). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>303</sup> Heritage watchdog: All Iraq at risk. (2005, June 22). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>304</sup> Stone, p. 939

policeman,<sup>305</sup> as well as six hundred missing artifacts being found at the prime minister's office and displayed at the museum,<sup>306</sup> one must acknowledge the parallels between this sentiment and the nation's colonial past. In this regard, considering the wanton destruction of cultural property amid the armed conflict of the invasion and the search for rescue from Western sources, it appeared that "we have advanced little since the imperial nineteenth century."<sup>307</sup>

What emerges from this examination is the reality that the Iraq National Museum has had a long history of being used as a political tool. This history is likely to be far from over. Complicit parties in this misappropriation included the United States and other foreign stakeholders, the new Iraqi government, as well as cultural heritage professionals.

### *The Museum's Potential to Signify a Return to Normalcy*

Despite this potential to be used as a political tool to divide, the museum nonetheless retains a rich potential to foster some future semblance of unification. The museum and its collections may prove valuable as an indicator of a post-war return to normalcy within Iraq, by virtue of the fact

---

<sup>305</sup> Iraq's Mona Lisa returns. (2003, September 24). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>306</sup> Iraq recovers lost artefacts [*sic*]. (2010, September 21). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>307</sup> Bogdanos (2008), p. 728

that increased conservation will result when the security situation improves, and foment a nascent sense of identity upon which to further unify. Given how many Iraqis saw it as symbolic of the greater breakdown of order, it should come as no surprise that the museum is used as a gauge for the recovery from this breakdown. Hence, success stories that are highlighted ultimately exploit the museum for political purposes.

A number of efforts within Iraq's new government have improved the conservation of cultural heritage as the nation recovers. For instance, the Iraqi government established the Iraq Cultural Heritage Conservation Initiative within the State Board of Antiquities and Heritage to increase the capacity to "document, manage, and conserve the country's cultural heritage through training, support for academic education, development of methods for site documentation and assessment."<sup>308</sup> As the security situation in Iraq improves, this initiative will increasingly undertake missions to evaluate and assist in the conservation of national cultural sites and institutions. More recently, the museum has been working with Google to digitize its collections. Amira Edan, the museum's current director, has declared her aspiration of this project "[marking] another step toward normalcy," while others have voiced hope that such efforts will "show that it's possible to do business in Iraq, that

---

<sup>308</sup> Palumbo, Gaetano. "The State of Iraq's Cultural Heritage in the Aftermath of the 2003 War." *Brown Journal of World Affairs*. Vol. 12 (2005), p. 235.

Iraq is an important market that will grow quickly, that it's sufficiently stable ... and that it's a safe place to be.”<sup>309</sup>

Given such efforts and the previous climate permissive to the looting of antiquities, one potential metric of a return to normalcy in Iraq may be when the nation can protect the remnants of its own cultural heritage without foreign aid. After all, when “cultural heritage is sacrificed, it is likely that many other aspects of life that mark us as human beings are also being sacrificed.”<sup>310</sup> As assistance programs in Iraq, both foreign and domestic, help to grow expertise, “Iraq may soon be able to independently undertake the protection and management of its cultural heritage,” with the measure of success “not [being] evident in the number of monuments saved, but in the capacity of Iraq to save them independent of foreign help.”<sup>311</sup> The Museum can, therefore, act as a weather vane of progress in reconstruction.

In the midst of armed conflict, as well as periods of recovery from such strife, cultural property has the potential to educate and unify cultures, as well as to preserve a sense of identity that could otherwise be lost. It is well established that, for countless generations, art and craft that has now become cultural property “has been used to illustrate the life styles and important

---

<sup>309</sup> Google to put Iraqi museum online. (2009, November 24). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

<sup>310</sup> Gerstenblith, Patty. “From Bamiyan to Baghdad: Warfare and the Preservation of Cultural Heritage at the Beginning of the 21<sup>st</sup> Century.” *Georgetown Journal of International Law*. Vol. 37 (2006), p. 351.

<sup>311</sup> Palumbo, p. 236

aspects of civilizations,” and it has remained “an important source of continuing education for a unifying social culture, especially in the rebuilding process after armed conflict.”<sup>312</sup> In this light, the educational value of the remnants of cultural heritage is, arguably, at its most important during such times of strife. If, for centuries of armed conflict, the destruction of a group’s cultural heritage has amounted to the elimination of their identity and “[facilitated] the degradation of that society,”<sup>313</sup> then safeguarding and exhibiting cultural property during strife could, conversely, achieve the preservation of that identity and promote admiration for that culture both at home and in the international community.

Much like the act of blogging has, in recent years, pointed the mainstream press to storylines that really matter to populations, the museum’s holdings may be able to similarly point widespread elements of international society to what really matters to Iraqis. Benefits may include providing a voice to overlooked scholars of cultural heritage, a wider awareness for unvoiced causes, and an “alternative source” of information in countries long “under the thumb” of the state.<sup>314</sup>

---

<sup>312</sup> Huang, p. 189

<sup>313</sup> Huang, pp. 189-190

<sup>314</sup> Drezner, Daniel, and Henry Farrell. “Web of Influence.” *Foreign Policy* (2004), p. 38.



### *The Museum's Capacity to Foster National Unity*

Aside from a return to normalcy, the museum can foster an Iraqi national identity and sense of pride. The museum has long been “a powerful tool that has promoted group identity in Iraq and provided meaning for countless Iraqis during periods of intense political and social change.”<sup>315</sup> At the turn of the previous century, Gertrude Bell’s work tapped an emerging sense of nationalism, giving the Iraqis control over their heritage and, thus, control over their past as well. Bell “was not the instigator of nationalist ideas in the country, for they were already emerging,” but “she gave the people of Iraq control over their antiquities and therefore control over their past.”<sup>316</sup> This sense of nationalism that the museum embodied is vital for the success of new nations, “an essential component for a new country to be successful.”<sup>317</sup>

Bell saw this potential in the early twentieth century, noting that “displays of ancient Mesopotamian achievements would bolster Iraqi confidence in the future of the new nation.”<sup>318</sup> These hopes, however, are not new to the twenty-first century. Rather, it is equally true now as it was at the turn of the twentieth century when the nation was formed. As a result, the museum can remain a symbol of emerging identity for all Iraqis, regardless of

---

<sup>315</sup> Bernhardsson, p. 220

<sup>316</sup> Lewis, Erin. “Gertrude Bell and Archaeology in Iraq: From World War I to the ‘War on Terror’.” *The Post Hole*. Issue 9 (2012), p. 17.

<sup>317</sup> Erin Lewis, p. 17

<sup>318</sup> Foster, Benjamin, Karen Polinger Foster, and Patty Gerstenblith. “Iraq Beyond the Headlines: History, Archaeology, and War.” World Scientific (2005), p. 225.

religion or tribe. The Iraqi people can look to this common heritage and draw upon it to redefine nationhood after years of division and conflict. More importantly, the Iraqi people can draw their own conclusions from this history and produce their own narratives, not just those that Western nations would favor. This is imperative in order to avoid simply repeating colonialism's effects in the twenty-first century.

There is now similar hope that these same secular pre-Islamic artifacts might bolster Iraqi confidence and pride in the nation, which can counter religious and tribal strife in the modern era. Just as a sense of unity was previously “developed during a restless and chaotic era immediately following independence,” a nation-building process similarly based on ancient history and archaeology may occur.<sup>319</sup> The “museum’s holdings consist almost entirely of pre-Islamic art, some as old as 6,000 years.”<sup>320</sup> While may seem counterintuitive that Islamists would value pre-Islamic artifacts, plenty of ruling elites have been enamored with the feelings of Mesopotamian exceptionalism they inspire, so it stands to reason that the same could be true for commoners as well. These artifacts are “rich with common ancestry that predates the splits among Kurd, Sunni Arab and Shiite.”<sup>321</sup> It stands to reason that in today’s Iraq, “where religious and tribal differences create a divisive

---

<sup>319</sup> Bernhardsson, pp. 165, 218

<sup>320</sup> Stevens, Lt. Erin A. “*The Cultural Sword: Leveraging Cultural Property in Iraq.*” University of Military Intelligence, Fort Huachuca, AZ (2008), p. 3.

<sup>321</sup> Bogdanos, Matthew. “Fighting for Iraq’s Culture.” *New York Times*. (March 6, 2007).

and violent climate,” this secular history that “juxtaposes against the Islamic radicalism and sectarianism at the root of violence in the country today” holds the “potential to create a sense of historical unity.”<sup>322</sup>

As many scholars have noted, cultural heritage preservation thrives upon inclusivity. It “depends on its ability to serve and build constituencies in the population at large,” with no group feeling disenfranchised or left behind.<sup>323</sup> In order for cultural heritage preservation “to be successful,” it “must have meaning for everyone and be the concern of all.”<sup>324</sup> This notion of inclusivity leads to “the perception of a common culture and common past” that is “one way of learning that one is part of a community. The very power of ... artifacts [has been] in their ability to use symbols and imagery to provide a sense of belonging to a group or community, a fundamental element of patriotism.”<sup>325</sup>

To this end, rather than merely propping up the ruling party’s historical narrative, the museum can give special voice to multiple communities by addressing Iraq’s long overlooked diversity, even if respective historic narratives are conflicting. This can and should include specific attention to the deeply felt tribal and religious differences that the

---

<sup>322</sup> Stevens, p. 3

<sup>323</sup> Hitchcock, Ann. “Through the Fog of War in Iraq: Lessons Learned in Heritage Preservation.” *The George Wright FORUM*. Vol. 20, No. 4 (2003), p. 37.

<sup>324</sup> Hitchcock, p. 37

<sup>325</sup> Bernhardsson, p. 165

U.S. initially ignored in its war planning. By virtue of predating modern-day strife, the Mesopotamian period stands poised as a solid common ground and a potential building block upon which to begin the long-term process of circumventing the modern splits among Kurd, Sunni Arab and Shiite.<sup>326</sup>

In addressing the nation's diversity and competing historical narratives, the museum can provide context to the many eras of strife within Iraqi heritage. If "the Iraqi nation is to fully recover from the trauma of its past, it will need to come to terms with that past and seek motivation and guidance in its history," and the avenue upon which to do so may be found in the nation's rich ancient history embodied in the national museum's holding.<sup>327</sup>

Context is vital to the field of archaeology. For this reason, artifacts are able to draw attention to "context-specific power relationships, class and other social inequalities and asymmetries."<sup>328</sup> In the case of the Iraq National Museum, therefore, context can communicate broader truths to the citizenry concerning broad elements such as Mesopotamian roots, the Islamic faith, periods of British colonialism and early nationhood, years of Baathist alienation, and the U.S. invasion and subsequent new government.

---

<sup>326</sup> Bogdanos (2007)

<sup>327</sup> Bernhardsson, p. 220

<sup>328</sup> Hamilakis, p. 104

This is in sharp contrast to the years of cultural heritage preservation in Iraq being “less concerned with answering universal, all-engrossing questions,” but rather with “an explanation of how contemporary Iraqis are the inheritors and descendants of certain ancient peoples and their civilizations. This construction has been deliberate ... with political purposes in mind ... to appeal to the citizens nationwide and thus be suggestive of how Iraq’s history is genealogical and linear and not multidimensional.”<sup>329</sup>

One must remain aware, however, that this gives people the power to do as they wish with their own heritage. Recalling that “a national museum is bound to have potential in the state-building process in a recently established nation such as Iraq, with its numerous ethnic and religious groups,” museums “seldom attempt to present the complexity of history or to accentuate differing interpretations.”<sup>330</sup> As multiple narratives are addressed, some are bound to be conflicting. Being aware that “the ethic of conservation is a context-specific principle ... some social groups may choose to place value not on the conservation of the material past but on its reworking, recycling, or even destruction.”<sup>331</sup> If the Iraqi populace gaining control over their antiquities amounted to control over the heritage that is embodied in the

---

<sup>329</sup> Bernharsson, p. 219

<sup>330</sup> Bernharsson, p. 149

<sup>331</sup> Hamilakis, p. 108

artifacts, then having control of this past must include the freedom to present and address it as they best see fit.

### ***The Museum's Role Moving Forward***

National museums are to be considered an outward sign of independent nations. After all, they are “the first physical manifestation of a country’s independence, as a sign of that country’s claim to its place” among the world’s great nations.<sup>332</sup> The Iraq National Museum, then, should not be considered any different. As “the new governments in the Middle East fought with the old imperial powers and structures ... to exercise full authority over cultural resources” in an attempt to be “more fully in control of their destiny,” the Iraq National Museum was “most fitting for the newly independent country” as “the massive amounts of artifacts” in its holdings could also be “displayed for the enrichment of public cultural life.”<sup>333</sup> The same remains equally true today. The reopening and proper functioning of the Iraq National Museum may simultaneously educate the Iraqi people of this independence and signal the nation’s rightful place to the international community. After all, if this is the U.S. goal in Iraq—to return the nation to a pre-totalitarian

---

<sup>332</sup> Shabout, Nada. “The Iraqi Museum of Modern Art: Legal Implications of the 2003 Invasion.” *Collections: A Journal for Museum and Archives Professionals*. Vol. 2, No. 4 (May 2006), p. 286.

<sup>333</sup> Bernhardsson, pp. 13, 149

state of affairs—then the museum’s restoration and functioning is equally in the best interests of the U.S. as it is of the Iraqis.

Moving forward, this potential to unite must be harnessed by scholars and policymakers alike. Though abundant now, the nation’s oil resources will eventually be depleted, but antiquities will always remain. As a resource, antiquities are indeed plentiful within Iraq’s borders and more are waiting to be tapped. In fact, the areas yet to be formally excavated and cataloged in the museum is four times greater than the museum’s collections and the areas formally excavated in the past hundred years.<sup>334</sup> It is with peril that the role that heritage plays in nation-building is overlooked. If the “center of gravity” of United States counterinsurgency operations “is the people, then their cultural heritage is the conscience of the people, often serving as ... a visible symbol of their society.”<sup>335</sup>

The United States must incorporate cultural property protection into its future post-conflict stabilization operations abroad.<sup>336</sup> Naturally, this would entail not only recognizing the formidable power that cultural heritage possesses, but also allowing for the benefit of its influence to be exerted. As United States doctrine evolves, cultural heritage protection must be a focal

---

<sup>334</sup> Detwiler, p. 2

<sup>335</sup> Jackson, Dick. “Cultural Property Protection in Stability Operations.” *Army Law*. (2008), p. 47.

<sup>336</sup> Detwiler, p. 3

point in both counterinsurgency and stability operations in the future. The unifying potential posed by the museum can and must be capitalized upon to signify a return to peace in Iraq, but perhaps more importantly to solidify its national identity, as well as to preserve this rich and ancient heritage well into future generations.

It is, however, important to recall the British influence in the formation of the Iraq National Museum, comprehending that the Iraqi populace essentially inherited their national museum rather than creating it. After all, the museum's "establishment was not the result of wealthy patronage or philanthropy;" rather "initial efforts for creating the Museum were performed by non-Iraqis," with the subtext of reflecting an Iraq "designed to be a compliant country that would honor faithfully Britain's local strategic and economic interests."<sup>337</sup> The museum is now in the unique position to break from these colonial roots and assert Iraq's new identity in the twenty-first century rather than reinforcing its post-colonial identity of yesteryear.

If museums are symbols of power, then it stands to reason that the Iraq National Museum can empower a people just as it has done for regimes. This can, in turn, ensure long-term preservation of artifacts and longevity of scholarship, as a profound resonance with the populace and a collective

---

<sup>337</sup> Bernhardsson, pp. 150, 109



identity or conscience are the first steps in securing the survival of material culture. Only when this occurs can cultural property be more certain of enduring preservation.

## Conclusion and Summary

*The looting of the Iraq National Museum in 2003 sparked debates over responsibility and questions concerning the appropriate approach to museum reconstruction. These debates reveal the symbolic power of the museum as an institution—a power that history has shown to be capable of division, but nonetheless retains tremendous potential for unification.*

*In the wake of the looting of the Iraq National Museum during the 2003 U.S.-led invasion, an analysis of the looters, the materials looted, and the permissive socio-cultural environment reveals the cultural heritage embodied in the museum's holdings to have been appropriated by all stakeholders for the purpose of furthering their own competing interests.*

*The majority of debate arising from these events centered on the United States' possible violation of international law and whether a theory of cultural nationalism or internationalism is most appropriate in repairing the museum. This discussion highlighted several conundrums facing heritage protection and preservation. Debate over U.S. responsibility for the looting revealed the inadequacy of legislation alone in protecting cultural heritage, while debates between approaches of cultural nationalism or internationalism as the proper path forward revealed a tragic tradeoff between what may be ideal for the global community and what may be in the best interests of the Iraqi nation.*

*Despite the museum's proven potential to divide, it nonetheless retains tremendous future potential to unify. This must be capitalized upon by heritage professionals and policy makers alike to signify a return to normalcy in Iraq and to preserve its national identity, diversity, and heritage.*

Looting is a phenomenon that so violates social mores that episodes of it merit examination, particularly when the loot is cultural property. The literature on the topic has shown potential looters, an availability of valued goods, an absence of restraining factors, and a permissive socio-cultural environment to be the four key contributors of

episodes of looting, as well as economic, symbolic, and selective to be the main three distinct types of looting.

This thesis examined the 2003 looting of the Iraq National Museum under this lens and found that the looting episode had both economic and symbolic significance. As expected, all four contributing components were present leading up to the 2003 looting of the Iraq museum and, notably, all three types of looting occurred as the museum's contents were ransacked.

Four distinct stakeholders emerged in this analysis—invading U.S. forces, outgoing Baathist officials, museum staff, and Iraqi citizens—each having different competing values of cultural heritage and its preservation. The opposition between these four groups revealed the cultural heritage embodied in the museum's holdings to have been appropriated by all four parties for the purpose of furthering their own competing interests.

The next sections recalled the debate that arose from these events, and attempted to cull larger revelations from these discussions. The majority of dialogue can be categorized as pertaining to whether the U.S. violated international law and whether a theory of cultural nationalism or internationalism is most appropriate in repairing the museum.

This essay showed how the primary arguments supporting the United States having violated international law focus on reading the intent

behind relevant international tenets within a spirit of national harmony with international standards, while most opinion against a violation of international law focus on a more literal reading of the law and minimal obligations toward compliance.

Thus, this thesis has argued that relevant legislation at the national and international levels is a not only flawed but inherently insufficient means to protect cultural heritage. Rather, a true national desire and legitimate conviction to protect cultural property must accompany any legislation in order to achieve effective cultural heritage protection.

The third section demonstrated that the prevailing preference among museum professionals has been to favor cultural internationalism. It argued that approaches rooted in cultural nationalism tend to be better for the source nation of the artifacts, while cultural internationalism often benefits the artifacts themselves, the field of study, and the global community. This debate revealed a bitter tradeoff between the best foreign interests and those of the recovering Iraqi nation.

The final section of this thesis argued that the Iraq National Museum, like most museums, has had a long history of being employed as a political tool, and called attention to its proven track record of fostering a spirit of division. This discussion recounted how use of the museum as an instrument of politics began with the British formation of modern-day Iraq

and installation of the Faisal monarchy, continued with the Baathist regime's use of the museum to legitimize their claim to power by way of connecting itself to the region's past glories, and again surfaced as the United States and the new Iraqi government also appropriating the museum to legitimize their efforts during the longer period of insurgency that followed. All the while, the museum was also used as a device to either condemn or justify U.S. foreign policy regarding the invasion and occupation both in the U.S. and the international community.

Nevertheless, cultural property retains the potential to educate and unify cultures, as well as to preserve a sense of identity that could otherwise be lost in the midst of armed conflict and periods of recovery from strife. As a result, this analysis revealed the museum's role as a weather vane of progress in the reconstruction of post-war Iraq and its ample potential to sow the seeds of a nascent unification despite its discordant history.

## **APPENDIX—BACKGROUND ON WORKS CITED**

This examination of the looting of the Iraq National Museum made use of a variety of types of sources in order to address the legal and policy implications of these events from an interdisciplinary standpoint. It consulted sources that examine the psychology of looting in general, as well as economists and contemporary historians to illustrate what could have led to these events. It looked to the journalistic coverage from shortly after the looting occurred in order to gauge both the Western and the Middle Eastern reaction. It also consulted jurisprudence and legal opinion to examine what preventative measures could and should have been done, as well as museum and heritage professionals to entertain proposals of what may be pursued in the museum's recovery. These sources are categorized below to provide further context.

### ***Domestic Heritage Professionals***

Robert McC. Adams—Archaeologist and professor of anthropology known for pioneering research in Iraq and multiethnic violence, and former Secretary of the Smithsonian

James Cuno—Art historian, President and Director of the Art Institute of Chicago, and former Director of Harvard University Art Museums

Eric Davis—Author and professor of political science, Director of the Center for Middle Eastern Studies at Rutgers University

Benjamin Foster—Professor of Mesopotamian literature, and economic and social history

Karen Polinger Foster—Professor of Bronze Age art and iconography

Laura Gawron—Master of Arts in Museum Professions

McGuire Gibson—Professor of Mesopotamian Archaeology at the University of Chicago's Oriental Institute and President of American Association for Research in Baghdad

Alexander Joffe—Archaeologist and professor of Near Eastern studies, as well as associate of Global Policy Exchange, Ltd. (an organization focusing on the role of culture in international affairs)

John Russell—Professor of art, as well as former Deputy Advisor to the Iraqi Minister of Culture and the Coalition Provisional Authority

### *Foreign Heritage Professionals*

Magnus Bernhardsson—Icelandic professor of Near East history with a focus on archaeology and nationalism in the modern Middle East

Joaquín María Córdoba —Spanish professor, researcher, and archaeologist with the Universidad Autónoma de Madrid

John Curtis—Keeper of the Department of the Middle East at the British Museum

Yannis Hamilakis—Cretan Professor of archaeology with a focus on the historically contingent nature of archaeology as a device of Western modernity and the socio-politics of archaeology, founder of Radical Archaeology Forum, and well-known advocate of politically committed archaeological practice

Erin Lewis—Archaeology student writing for a student-run journal at the University of York (U.K.)

Gabriel Moshenska—U.K. professor of public archaeology with a focus on nationalistic constructions of past and civilian experience of war

Gaetano Palumbo—Italian archaeologist specializing in Middle Eastern archaeology, conservation specialist at the Getty Conservation Institute, and former Director of Archaeological Conservation at the World Monuments Fund

Peter Stone—U.K. professor interested in the ethics of cultural heritage experts working with militaries, former Chief Executive Officer of the World Archaeological Congress, and former archaeological advisor to the British Ministry of Defence prior to the Iraq invasion

### *Middle Eastern Heritage Professionals*

Joanne Bajjaly—Independent archaeologist and journalist covering the Middle East

Donny George—Iraqi professor of Asian and Asian-American studies, former Director of the Iraq National Museum at the time of the invasion, former faculty member at the University of Baghdad

Nada Shabout—Professor of modern Iraqi art, American of Iranian descent who spent a significant portion of her youth in Iraq

Lamia Al-Gailani Werr—Iraqi archaeologist and historian of the Ancient Near East, former advisor to the Iraq Museum by the Iraqi Reconstruction and Development Council in Baghdad, and honorary member of the British School of Archaeology in Iraq and a valued advisor to its Council.



### ***Military and Government Agents***

Matthew Bogdanos—U.S. Marine Corps Reserve Colonel and New York assistant district attorney with advanced degrees in classics, law, and military strategy who has been decorated for efforts as the former leader of the U.S. investigation into the looting of the Iraq National Museum and artifact recovery effort and continues to hunt for stolen antiquities at the district attorney's office

Elizabeth Detwiler—Program assistant at the Center for Post-conflict Peace and Stability Operations (a team dedicated to social and economic reconstruction) at the U.S. Institute of Peace (an independent institution established and funded by Congress to promote global peace-building efforts)

Lt. Erin Stevens—Army reservist and veteran of Operation Iraqi Freedom who studied Cultural Policy and Arts Management at University College—Dublin and has written on the subject for the University of Military Intelligence

Ann Hitchcock—Chief Curator for the U.S. National Park Service who is active in the service's Museum Management Program

Dick Jackson—Special Assistant to the Army Judge Advocate General for Law of War Matters, retired U.S. Army Colonel with experience as legal advisor in joint and combined operations in Iraq, and former NATO legal advisor

Lawrence Kumins—Specialist in energy policy in the Resources, Science, and Industry Divisions of the Congressional Research Service

*Jurisprudence—Professors, attorneys, and legal journalists*

Reem Bahdi—Canadian professor of human rights and national security laws, particularly in the Palestinian context, former Director of the Women’s Human Rights Resources project at the University of Toronto

Patty Gerstenblith—U.S. professor of law with a focus on cultural heritage law, Chairman of the Lawyer’s Committee for Cultural Heritage Preservation, member of the President’s Cultural Property Advisory Committee from 2000-2003, and Editor in Chief for International Journal of Cultural Property

Edythe Huang—Attorney with a focus on civil international law, former Editor in Chief of Race and the Law Review at Rutgers University

John Henry Merryman—U.S. professor of law and internationally renowned expert on art and cultural property law, as well as comparative law

Jordan Paust—U.S. professor of international law who is among the most cited of American law professors and has served on a number of committees regarding international law, human rights, laws of war, terrorism, and the use of force

Ian Ralby—American international law attorney based in Europe and former clerk for the Iraq Special Tribunal with a practice focusing on expertise in international criminal law, international conflict resolution, and post-conflict reconstruction

A number of students, practitioners, and legal journalists in international and comparative law who have written on the topic of ethical lawyering in the Global War on Terrorism, including: Courtney Campbell, Amy Miller, Sasha Paroff, Kirsten Petersen, William Smith, Matthew Thurlow, and Lindsay Willis

***Other—Journalists, Think Tanks, Professors, etc.***

A number of Al Jazeera in English articles

Neal Ascherson—Scottish journalist for *The Guardian*, editor at *Public Archaeology*, and visiting professor at the Institute of Archaeology at University College—London

Daniel Drezner and Henry Farrell—American political science and international affairs professors that have actively written and blogged on the looting of the Iraq National Museum

Elizabeth Ferris and Matthew Hall—Directors of the Brookings—London School of Economics Project on Internal Displacement with a focus on the international community's response to humanitarian crises

Scott Harding—Assistant Professor at the School of Social Work at the University of Connecticut

Simon Jenkins—Award-winning journalist for *The Guardian*, former U.K. Deputy Chairman of English Heritage

Andrew Lawler—Freelance writer who has written extensively on Middle Eastern archaeology, regular contributor to *Science and Archaeology Magazine*

Carol Lewis—U.S. professor of political science with a focus on the ethics of public service

Roger MacGinty—U.K. professor of Peace and Conflict Studies at the Humanitarian and Conflict Resolution Institute with a focus on international peace-support interventions and local reactions to these interventions

Lawrence Rothfield—Professor of English and comparative literature, as well as co-founder of the University of Chicago's Cultural Policy Center, with a focus on public good of arts, humanities, and heritage

Samuel Schubert—Writer for the Institute for Human and Social Studies at  
the Austrian National Defense Academy

Wayne Sandholtz—U.S. political science professor with a focus on  
international norms and institutions, funded by grants from the Center  
for Global Peace and Conflict Studies at the University of California

Dennis Vreeke—Canadian economist

## BIBLIOGRAPHY

- “The Thieves of Baghdad.” *The Burlington Magazine*. Vol. 145, No. 1203 (June 2003).
- Adams, Robert McC. “Contexts of Iraqi Looting.” *Proceedings of the American Philosophical Society*. Vol. 149, No. 1 (March 2005).
- Ascherson, Neal. “Iraq and Ruin.” *The Guardian*. 1 May 2003.
- Bahdi, Reem. “Iraq, Sanctions and Security: A Critique.” *Duke Journal of Gender Law and Policy*. Vol. 9, No. 237 (2002).
- Bernhardsson, Magnus T. *Reclaiming a Plundered Past: Archaeology and Nation Building in Modern Iraq*. University of Texas Press (2006).
- Bogdanos, Matthew. “The Casualties of War: The Truth about the Iraq Museum.” *American Journal of Archaeology*. Vol. 109, No. 3 (July 2005).
- Bogdanos, Matthew. “Fighting for Iraq’s Culture.” *New York Times*. (March 6, 2007).
- Bogdanos, Matthew. “Thieves of Baghdad: Combating Global Traffic in Stolen Iraq Antiquities.” *Fordham International Law Journal*. Vol. 31 (2008).
- Bogdanos, Matthew and Patrick, William. *Thieves of Baghdad: One Marine’s Passion for Ancient Civilizations and the Journey to Recover the World’s Greatest Stolen Treasures*. New York: Bloomsbury (2005)
- Bremer: Not enough troops in Iraq. (2004, October 5). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Bush strategies in Iraq to date. (2007, January 11). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

- Campbell, Courtney. "Arts and Arms: An Examination of the Looting of the National Museum of Iraq." *Boston College International and Comparative Law Review*. Vol. 32 (2009).
- Córdoba, Joaquín María. "On the Iraq Museum and Other Assaults: Brief News about the Plundering of Iraqi Museums and the Systematic Looting of Iraqi Archaeological Heritage." *Isimu: Revista sobre Oriente Próximo y Egipto en la Antigüedad*. Vol. 3 (2000), pp.20-21.
- Cuno, James. "Antiquity Belongs to the World: Archaeology Must Be Shielded From Nationalistic Laws And Politics." *The Chronicle of Higher Education Review*. Vol. 54, Issue 43 (2008).
- Curtis, John. "Relations between Archaeologists and the Military in the Case of Iraq." *Papers from the Institute of Archaeology*. Vol. 19 (2009).
- Davis, Eric. "Memories of State: Politics, History, and Collective Identity in Modern Iraq. University of California Press (2005).
- Davis, Eric. "The Museum and the Politics of Social Control in Modern Iraq." *Commemorations: The Politics of National Identity*. Princeton University Press (1994).
- Detwiler, Elizabeth. "Iraq's Cultural Heritage: Preserving the Past for the Sake of the Future." *United States Institute of Peace*. October Briefing (2008).
- Drezner, Daniel, and Henry Farrell. "Web of Influence." *Foreign Policy* (2004).
- Fagan, Brian M. *Return to Babylon: Travelers, Archaeologists, and Monuments in Mesopotamia*. University Press of Colorado (2007).
- Ferris, Elizabeth and Hall, Matthew. "Update on Humanitarian Issues and Politics in Iraq." *Brookings-Bern Project on Internal Displacement* (2007).

- Foster, Benjamin, Karen Polinger Foster, and Patty Gerstenblith. "Iraq Beyond the Headlines: History, Archaeology, and War." *World Scientific* (2005).
- Gawron, Laura. "An Examination of the 2003 Looting of the Iraq National Museum: How the Protection of Iraq's Cultural Property Was Overlooked." Seton Hall University (2010).
- George, Donny and McGuire Gibson. "The Looting of the Iraq Museum Complex." *Catastrophe: The Looting and Destruction of Iraq's Past*. Chicago: The Oriental Institute Museum (2008).
- Gerstenblith, Patty. "From Bamiyan to Baghdad: Warfare and the Preservation of Cultural Heritage at the Beginning of the 21<sup>st</sup> Century." *Georgetown Journal of International Law*. Vol. 37 (2006).
- Giannuzzi, Timothy. Book review of Magnus T. Bernhardsson's "Reclaiming a Plundered Past: Archaeology and Nation Building in Modern Iraq." *The American Journal of Islamic Social Sciences*. Vol. 23, No. 2 (2006).
- Google to put Iraqi museum online. (2009, November 24). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Hamilakis, Yannis. "Iraq, Stewardship and 'The Record': An Ethical Crisis for Archaeology." *Public Archaeology*. Vol. 3, No. 2 (2003).
- Hamilakis, Yannis. "The 'War on Terror' and the Military-Archaeology Complex: Iraq, Ethics, and Neo-Colonialism." *Archaeologies: Journal of the World Archaeological Congress* (14 February 2009).
- Harding, Scott. "Man-made Disaster and Development: The Case of Iraq." *International Social Work*. Vol. 50, No. 3 (2007), p. 300.
- Harding, Scott. "The Sound of Silence: Social Work, the Academy, and Iraq." *Journal of Sociology and Social Welfare*. Vol. 31, No. 2. (2004), pp. 183-184, 186.

- Heritage watchdog: All Iraq at risk. (2005, June 22). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- History ... another victim of occupation. (2003, October 23). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Hitchcock, Ann. "Through the Fog of War in Iraq: Lessons Learned in Heritage Preservation." *The George Wright FORUM*. Vol. 20, No. 4 (2003).
- Huang, Edythe E. "Looting in Iraq, Five Years Later: An Evaluation of the International Protection, Recovery, and Repatriation of Looted Cultural Artifacts." *Rutgers Race and the Law Review*. Vol. 10 (2008).
- Iraq's film veterans lament loss. (2006, July 3). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Iraq recovers lost artefacts [sic]. (2010, September 21). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Iraq war flick marks industry comeback. (2003, October 1). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Iraq's Mona Lisa returns. (2003, September 24). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Iraqi museum gets priceless pieces back. (2005, January 19). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Iraq reopens looted national museum. (2009, February 24). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Jackson, Dick. "Cultural Property Protection in Stability Operations." *Army Law*. (2008).
- Jenkins, Simon. "In Iraq's Four-year Looting Frenzy, the Allies Have Become the Vandals." *The Guardian*. Vol. 6, No. 8 (2007).



- Joffe, Alexander H. "Museum Madness in Baghdad." *The Middle East Quarterly*. Vol. XI, No. 2 (Spring 2004).
- Kumins, Lawrence C. "Iraq Oil: Reserves, Production, and Potential Revenues." Congressional Information Service, Library of Congress (2004), p. 1.
- Lack of funds hinders Iraqi museum. (2010, September 25). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Lawler, Andrew. "Mayhem in Mesopotamia." *Science*. Vol. 301 (August 2003).
- Lewis, Carol W. "In Pursuit of the Public Interest." *Public Administration Review*. Vol. 66, No. 5 (2006).
- Lewis, Erin. "Gertrude Bell and Archaeology in Iraq: From World War I to the 'War on Terror'." *The Post Hole*. Issue 9 (2012).
- Looters target Iraq antiquities. (2010, July 6). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- MacGinty, Roger. "Looting in the Context of Violent Conflict: A Conceptualization and Typology." *Third World Quarterly*. Vol. 25, No. 5 (2004).
- Merryman, John Henry. "Thinking about the Elgin Marbles." *Michigan Law Review*. Vol. 83 (1984).
- Merryman, John Henry. "Two Ways of Thinking about Cultural Property." *American Journal of International Law*. (1986).
- Miller, Amy E. "The Looting of Iraqi Art: Occupiers and Collectors Turn away Leisurely from the Disaster." *Case Western Reserve Journal of International Law*. Vol. 37 (2005).

- Moshenska, Gabriel. "'Impudent Lies': Rhetoric and Reality in Wartime Heritage Protection, 1943-2003." *Present Pasts*. Vol. 3.1 (2011).
- Palumbo, Gaetano. "The State of Iraq's Cultural Heritage in the Aftermath of the 2003 War." *Brown Journal of World Affairs*. Vol. 12 (2005).
- Paroff, Sasha P. "Another Victim of the War in Iraq: The Looting of the National Museum in Baghdad and the Inadequacies of International Protection of Cultural Property." *Emory Law Journal*. Vol. 53 (2004).
- Paust, Jordan J. "The US as Occupying Power Over Portions of Iraq and Relevant Responsibilities Under the Laws of War." *The American Society of International Law Insights*. Vol. 1 (2003).
- Petersen, Kirsten E. "Cultural Apocalypse Now: The Loss of the Iraq Museum and a New Proposal for the Wartime Protection of Museums." *Minnesota Journal of International Law*. Vol. 16 (2007).
- Priceless museum items go missing. (2003, September 11). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Ralby, Ian M. "Prosecuting Cultural Property Crimes in Iraq." *Georgetown Journal of International Law*. Vol. 37 (2005).
- Reopening Iraq's museum. (2009, March 14). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Rothfield, Lawrence, ed. *Antiquities under Siege: Cultural Heritage Preservation after the Iraq War*. Lanham: AltaMira Press (2008).
- Rumsfeld defends Iraq force size. (2005, April 27). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Russell, John M. "Efforts to Protect Archaeological Sites and Monuments in Iraq, 2003-2004." *Catastrophe: The Looting and Destruction of Iraq's Past*. Chicago: The Oriental Institute Museum (2008).

- Sandholtz, Wayne. "The Iraqi National Museum and International Law: A Duty to Protect." *Columbia Journal of Transnational Law*. Vol. 44 (2005).
- Schubert, Samuel. "Revisiting the Oil Curse: Are Oil Rich Nations Really Doomed to Autocracy and Inequality?" *Oil and Gas Business*. National Defense Academy in Austria, Institute for Human and Social Studies (July 2006).
- Shabout, Nada. "The Iraqi Museum of Modern Art: Legal Implications of the 2003 Invasion." *Collections: A Journal for Museum and Archives Professionals*. Vol. 2, No. 4 (May 2006).
- Smith, William C. "Law versus Looters." *American Bar Association Journal*. Vol. 89 (2003).
- Stealing undiscovered history in Iraq. (2004, April 14). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- Stevens, Lt. Erin A. "The Cultural Sword: Leveraging Cultural Property in Iraq." University of Military Intelligence, Fort Huachuca, AZ. (2008).
- Stone, Peter. "The Identification and Protection of Cultural Heritage during the Iraq Conflict: A Peculiarly English Tale." *Antiquity*. Vol. 79 (2005).
- Stone, Peter and Bajjaly, Joanne, eds. *The Destruction of Cultural Heritage in Iraq*. Woodbridge, Suffolk: Boydell Press (2009).
- Thurlow, Matthew D. "Protecting Cultural Property in Iraq: How American Military Policy Comports with International Law." *Yale Human Rights and Development Law Journal*. Vol. 8 (2005).
- Timeline: Conflict in Iraq. (2006, March 20). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.
- US gives world 'happy' Iraq news. (2003, June 8). Al Jazeera. Retrieved from <http://www.aljazeera.com/>.

US occupiers compared to Mongol looters. (2003, October 16). Al Jazeera.

Retrieved from <http://www.aljazeera.com/>.

Vreeke, Dennis. "The Looting of the National Museum of Iraq, Baghdad:

How Cultural Heritage Became War Booty." McGill University (20 November 2006).

Werr, Lamia Al-Gailani. "A Museum Is Born." The Looting of the Iraq

Museum, Baghdad: The Lost Legacy of Ancient Mesopotamia. Harry N. Abrams (2005).

Willis, Lindsay. "Looting in Ancient Mesopotamia: A Legislative Scheme for

the Protection of Iraq's Cultural Heritage." *Georgia Journal of International and Comparative Law*. Vol. 34 (2005).

World Bank struggles with Iraq finances. (2003, August 2). Al Jazeera.

Retrieved from <http://www.aljazeera.com/>.